

Report on the

Alabama Board of Nursing

Montgomery, Alabama



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September 8, 2004

Rep. Howard Sanderford, Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Representative Sanderford,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Nursing** in accordance with the ***Code of Alabama 1975***, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Nursing**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones
Chief Examiner

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PROFILE

Purpose/Authority

The Board of Nursing was created by Act 867, *Acts of Alabama 1965* to regulate both nursing education and practice. The board currently operates under authority of the *Code of Alabama 1975*, Sections 34-19-1 through 34-19-10 and Sections 34-21-1 through 34-21-93. The board accomplishes its purpose by licensing nurses, receiving and investigating complaints; disciplining licenses, setting and reviewing standards for study and course curricula, requiring and providing continuing education, and granting scholarships to post-baccalaureate nursing students.

Board Characteristics

Members	<ul style="list-style-type: none">• 4 Licensed Practical Nurses (LPN)• 6 Registered Nurses (RN)• 2 Advanced Practice Nurses (APN)• <u>1</u> Consumer Member 13 Total
Terms	No more than two 4-year consecutive terms.
Selection	Appointed by the Governor: <ul style="list-style-type: none">• 2 LPNs nominated by the Licensed Practical Nurses Associations of Alabama• 2 LPNs nominated by the Alabama Federation of Licensed Practical Nurses, Incorporated• 6 RNs and 2 APNs nominated by the Alabama State Nurses Association• Consumer member appointed by the Governor
Qualifications	<ul style="list-style-type: none">• United States Citizen• Alabama resident• 5 years experience next preceding appointment• LPN - Graduate of a state-approved vocational educational program for the preparation of practitioners of licensed practical nursing.• RN, APN – Graduate of a state-approved educational program for the preparation of practitioners of professional nursing.
Minority Race Representation	No statutory requirement 2 minority members

Geographical Representation	No statutory requirement
Consumer Representation	Required by statute 1 consumer member
Other Representation	Membership must include representatives from the fields of nursing education, nursing administration, clinical nursing and advanced practical nursing.
Compensation	Board members receive \$125.00 per day for attending board business plus travel and per diem at state employee rates.
<u>Operations</u> Administrator	Genell Lee, Executive Officer, appointed by and salary set by the board. Annual Salary - \$107,646.76
Location	RSA Plaza, Suite 250 770 Washington Avenue Montgomery, AL 36130
Examinations	Applicants for both the registered and practical nurses license must pass an examination. Examinations are prepared by the National Council of State Boards of Nursing and administered by Educational Testing Service through Sylvan Technology Centers. Exams are offered daily at the Sylvan Technology Centers through computer adaptive testing. The exams are verified and the results processed by the Chauncey Group International.
Licensees	<ul style="list-style-type: none"> • LPN – Licensed Practical Nurses – 16,518 • RN – Registered Nurses – 48,295 • APN – Advanced Practice Nurses: <ul style="list-style-type: none"> Nurse Midwives 34 Nurse Specialists 121 Nurse Practitioners 1,323 Nurse Anesthetists <u>1,428</u> <li style="text-align: right;">Total <u>2,906</u>

Renewals	<ul style="list-style-type: none"> • Licenses are renewed biennially • Licenses for RN renew on September 1 through November 30 of even-numbered years. • Licenses for LPN renew on September 1 through November 30 of odd-numbered years.
Reciprocity	Available for both registered and practical nurses, if the applicant is licensed in another state and met the requirements for licensure in Alabama at the time of the applicant's graduation.
Continuing Education	Required by statute for license renewal. No less than 24 hours for a two year period.
Employees	36
Legal Counsel	Staff Attorney – Gail Hampton, Assistant Attorney General Private Attorney - Randolph Reaves
Subpoena Power	Yes – Records and witnesses.
Internet Presence	<p>www.abn.state.al.us. The website contains the following information:</p> <ul style="list-style-type: none"> • General Information <ul style="list-style-type: none"> • Statutory Authority • Administrative Code • Declaratory Rulings • Disciplinary Actions • Frequently Asked Questions • Mission, Values, and Vision • Historical Information • Contact Information <ul style="list-style-type: none"> • Board Members • ABN Staff • Holidays • Directions to the Office • Special Interests <ul style="list-style-type: none"> • Chief Nursing Officers • School Nurses • Employer Information • RN Nursing Education Programs • PN Nursing Education Programs • Scholarship Information

	<ul style="list-style-type: none"> • CE Opportunities • Online Services <ul style="list-style-type: none"> • Licensure by Examination • Licensure by Endorsement • Reinstatement of a Lapsed License • Order a Replacement License Card • Name / Address Change • Status Check – Subscribers Only • Mailing Labels – Subscribers Only • Fees • News and Updates • Voluntary Disciplinary Alternative Program • Information and Downloads • Renewal Information
Attended Board Member Training	Chief Fiscal Officer Executive Secretary
<u>Financial Information</u>	
Source of Funds	Licensing fees and administrative fines
State Treasury	Yes
Unused Funds	Remains in the board's fund at fiscal year end.

SIGNIFICANT ITEMS

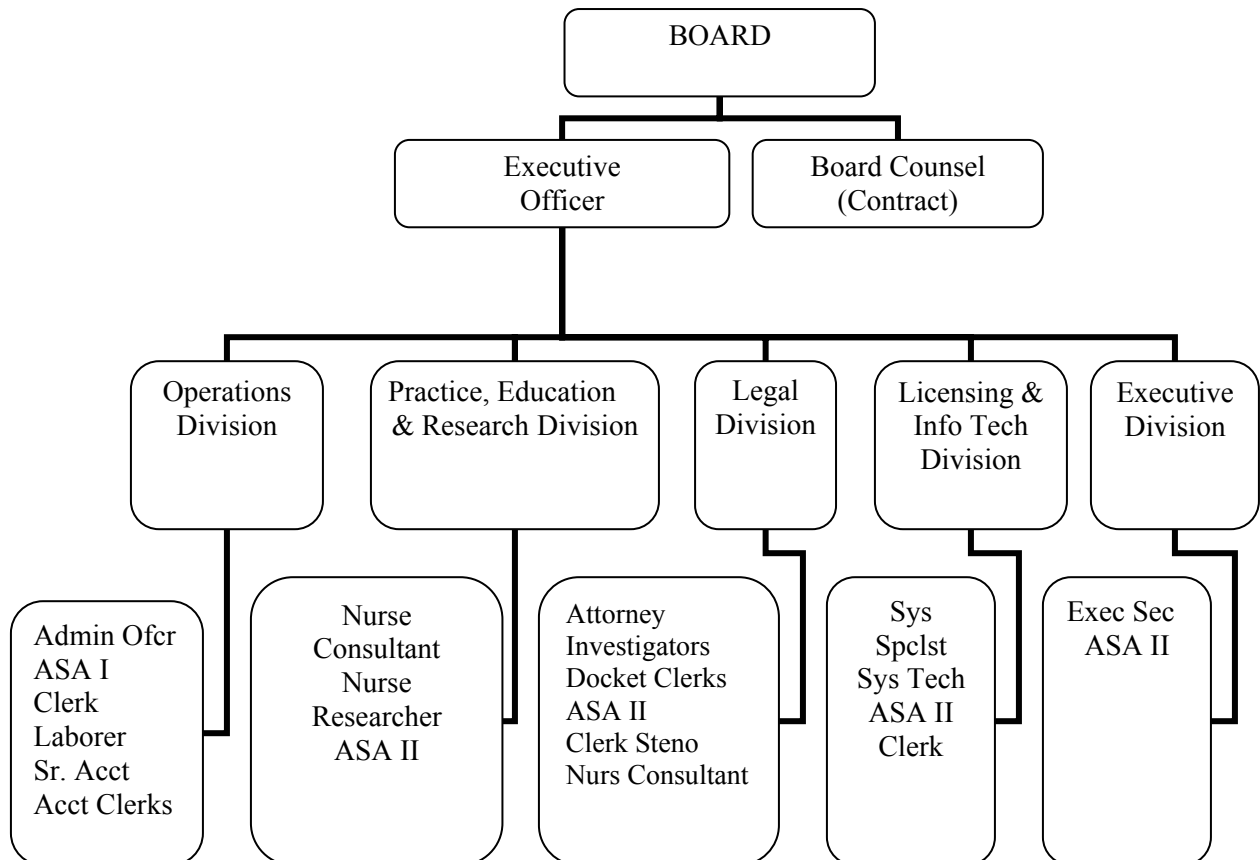
In the 2004 regular legislative session, House Bill 385, sponsored by Representative Grantland and Senate Bill 149, sponsored by Senator Dixon, were introduced to amend Section 34-21-2, *Code of Alabama 1975* to grant investigators of the Board of Nursing the authority to exercise the power of peace officers and to require investigators to comply with the minimum standards for peace officers. The bills would also amend Section 20-2-90, *Code of Alabama 1975* to grant the board's investigators the power to enforce controlled substance laws. The bills were not successful, but the changes remain a goal for the Board of Nursing.

The board's executive officer stated the following. Arrest powers for the investigators of the Board of Nursing are critical to the board's legal mandate of public protection. The board seeks this authority not to create the "*nurse police*" but to have access to information that is currently not available. Arrest powers require compliance with Peace Officer Standards and Training and indicate to other law enforcement agencies that a minimum standard is met. That is how law enforcement agencies determine what information to share. The Board of Nursing does not reveal investigative information to other agencies, and therefore other agencies do not reveal information to them. Thus if a nurse has criminal behavior, particularly as it relates to drugs, the action against the license might be delayed. Because the investigators do not have arrest powers and are not law enforcement officers, they do not have access to the National Crime Information Center (NCIC) to check criminal histories of applicants and licensees. The Board of Pharmacy and the Board of Medical Examiners investigators have arrest powers. If the Board of Nursing works a joint case with either agency, investigative information that might be useful to the Board is not shared because of the lack of arrest powers.

STATUS OF PRIOR FINDINGS

There are no unresolved prior audit findings.

ORGANIZATION



PERSONNEL

The board employs thirty-six persons, consisting of an executive officer and thirty-five merit system employees. The executive officer is appointed by the board and serves in an unclassified merit system position.

Schedule of Employees

Classification	Number of Employees	Race/Gender
Executive Officer	1	White/Female
Executive Secretary	1	White/Female
Administrative Services Officer II	1	Black/Female
Attorney IV	1	White/Female
Nurse Consultant	3	White/Female
Nurse Consultant	2	Black/Female
Senior Accountant	1	White/Male
Special Investigator, Chief	1	White/Male
Special Investigator	2	White/Male
Special Investigator	1	Black/Male
IT Systems Specialist, Sr	1	White/Male
IT Systems Specialist	2	White/Male
IT Systems Technician, Sr	1	White/Male
Account Clerk	1	White/ Female
Account Clerk	1	White/Male
Docket Clerk	3	Black/Female
Clerk Steno II	1	White/Female
Administrative Support Assistant II	1	Black/Female
Administrative Support Assistant II	6	White/Female
Administrative Support Assistant II	1	Black/Male
Administrative Support Assistant I	1	Black/Female
Clerk	1	Black/Female
Clerk	1	Black/Male
Laborer	1	Black/Female
Total Employees	36	

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 1,881

Operating Disbursements per Licensee – \$40.00

Number of Persons per Licensee in Alabama and Surrounding States

State	Population (Estimate)	Licensees			Total	Persons Per Licensee
		RN	LPN	APN		
<i>Alabama</i>	<i>4,500,752</i>	<i>48,295</i>	<i>16,518</i>	<i>2,906</i>	<i>67,719</i>	<i>66</i>
Florida	17,019,068	171,581	57,038	9,916	238,535	71
Georgia	8,684,715	85,000	29,350	4,500	118,850	74
Mississippi	2,881,281	32,048	11,707	1,631	45,386	63
Tennessee	5,841,748	66,541	26,000	646	93,187	63

Notification to Licensees of Board Decisions to Amend Administrative Rules

Prior to amending and adopting administrative rules, the board solicits information and opinions from licensees and other affected professionals (e.g. doctors, nursing education providers, continuing education providers, nursing facility administrators, etc.) The board obtains information by appointing licensees to advisory councils and using task forces to survey affected licensees and professionals. Proposed rules are filed with the Alabama Legislative Reference Service, published in the *Alabama Administrative Monthly*, and posted on the board's website.

Jurisdictional Overlap with Other Agencies

The Board of Nursing shares responsibility for licensing and regulating midwives with the Board of Medical Examiners. The Board of Nursing also cooperates with the Board of Medical Examiners to establish a joint committee to recommend rules and regulations to govern the collaborative practice of physicians and certified registered nurse practitioners and certified nurse midwives.

Complaint Process

Complaints received by the Board of Nursing are required to be in writing by the *Code of Alabama 1975, Section 34-21-25(c)*. Therefore, when complaints are received by telephone, individuals are directed to submit their complaints or reports in writing via letter, e-mail, or complaint form, which is on the board's web site. A complaint form can be mailed or faxed to the complainant. Although complaints must be in writing, action upon anonymous complaints is not prohibited.

Initial Receipt	<ul style="list-style-type: none">• Executive office personnel establishes case file• Complaint is docked in the licensee database• Executive officer or her designee reviews each complaint and determines initial records to be subpoenaed
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Review of Complaint	<ul style="list-style-type: none"> • All complaints reviewed by the chief investigator, Assistant Attorney General and nurse consultant to determine violations of the nurse practice act • Substance abuse complaints are screened by the director of the non-disciplinary nursing approach (impaired nurses) program for eligibility in that program • Cases with egregious offenses are immediately brought to the attention of the executive officer and the Assistant Attorney General
Notification of Complaints	<ul style="list-style-type: none"> • The licensee is sent a notice of investigation • The complainant is sent an acknowledgement of the receipt of the complaint • A subpoena duces tecum is prepared for any additional documentation to prove allegations if such documentation did not accompany the written complaint
Investigation	<ul style="list-style-type: none"> • The complaint is assigned to an investigator upon receipt of evidence from the subpoena duces tecum • The investigator performs all necessary audits, reviews, and interviews • An investigative summary and report is prepared
Review of Investigative Findings	<ul style="list-style-type: none"> • The chief investigator reviews the report for sufficiency of evidence • A nurse consultant reviews the report to recommend additional investigation and/or disposition • The Assistant Attorney General reviews the report for confirmation of violations of the nurse practice act and recommendation for final disposition <p>Complaints found to be unsubstantiated or that present no probable cause for board action are dismissed without presentation to the board.</p>

Resolution	<ul style="list-style-type: none"> Disposition of complaints include <ul style="list-style-type: none"> Dismissal as unsubstantiated Closure with a letter if no meritorious basis Letter of admonishment if the offense does not merit discipline Informal disposition with a consent order Formal disposition with administrative charges and hearing Voluntary surrender of licensure by the respondent If licensee's employer is known, letter is sent to employer to identify final resolution (even if employer was not board's complainant). If licensee's employer subscribes to group on-line license verification service, an electronic mail notification is sent to employer if the license status changes due to discipline.
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Schedule of Complaint Resolutions

Fiscal Year	Total Complaints	Average Time of Resolution (days)	Unresolved
2000-01	840	131.6	4
2001-02	952	103.6	4
2002-03	718	103.7	28

Sources of Complaints

Complaint Source	2001	2002	2003
ABN Staff	103	55	231
Anonymous	18	19	38
Consumer	23	16	14
Employee/Co-Worker	241	158	195
Endorsement Applicant	72		10
Exam Applicant	221	328	17
Insurance	-	1	2
Law Enforcement	1	1	4
Other	-	9	-
Other Agency	59	49	134

Patient/family	17	18	21
Physician/Dentist	5	-	-
Reinstatement Application	17	-	20
Renewal Application	127	-	1
Self Report	52	89	140
Total	956	743	827

FINANCIAL

The *Code of Alabama 1975*, Section 34-21-2(c) and Section 34-21-24 authorizes the board to determine, set and collect reasonable fees. All fees charged by the board are presented in the board's Administrative Rule 610-X-4-.13.

Fee Schedule

Description	Amount \$
Original license/ examination or endorsement	85.00
Biennial renewal	75.00
Reinstatement fee, lapsed license	100.00
Reinstatement fee, revoked license	200.00
Reinstatement fee, suspended license	150.00
Late CE Audit Fee:	
1 st Time	100.00
2 nd Time	300.00
3 rd Time	500.00
Late renewal	100.00
Temporary permit	50.00
Monitoring fee, voluntary disciplinary alternative prog.	750.00
CE Provider	300.00
Certification/Verification of Alabama licensure	30.00
Transcripts of nursing school records	25.00
Duplicate license card	25.00
Copy of scores/results/applications/ letters of approval	10.00
Consultation visit	100.00/day
Initial approval for advanced practice	150.00
Biennial renewal of approval for adv practice	50.00
Administrative code (printed copy)	25.00
Processing of subpoena	10.00
Additional approval or change collaborative practice	25.00
Notary services	5.00
Miscellaneous services	Up to 100.00
Purchase of Roster	50.00 &.06/name
Group online license verification subscription service	Up to 2,000/year
Violations	Up to 1,000

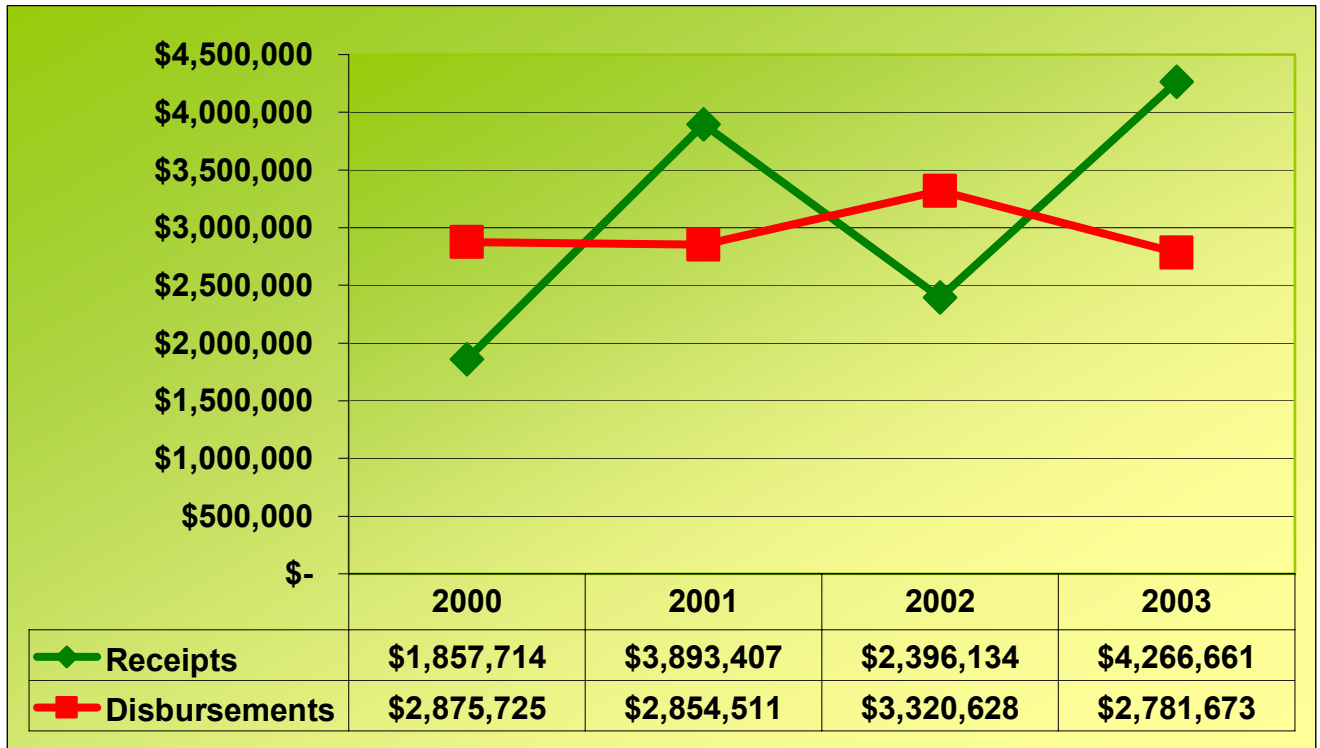
Schedule of Cash Receipts, Disbursements and Balances

For the Period October 1, 1999 through September 30, 2003

	<u>2002/03</u>	<u>2001/02</u>	<u>2000/01</u>	<u>1999/00</u>
<u>Receipts</u>				
Education Trust Fund Transfer	51,109.00	53,466.00	\$ 53,466.00	\$ 57,000.00
Nurses Licensing & Permitting Fees	3,093,240.90	1,821,127.98	3,415,055.50	1,500,625.25
Fees - Not Otherwise Classified	218,248.51	173,432.56	95,322.23	65,816.45
Fees - Professional Examination	362,750.00	291,465.00	288,285.00	193,758.00
Board Penalties	84,073.00	52,024.00	39,478.00	31,400.00
Prior Year Refunds	448,783.02	(289.00)	1,434.36	8,318.74
Sales - Publications		75.00	30.00	590.00
Sales - Salvaged Equipment	8,456.25		64.61	205.26
Miscellaneous		3,530.00	120.00	-
3rd Party Refund Due Employees		1,302.55	151.45	-
Total	<u>4,266,660.68</u>	<u>2,396,134.09</u>	<u>3,893,407.15</u>	<u>1,857,713.70</u>
<u>Expenditures</u>				
Personnel	1,579,762.87	1,596,210.37	1,396,644.06	1,332,213.07
Employee Benefits	397,464.40	391,353.11	324,694.72	291,936.83
Travel in State	29,328.25	52,972.48	56,240.92	50,353.19
Travel out of State	25,583.47	25,435.47	48,039.73	51,088.90
Repairs & Maintenance	6,875.03	34,211.47	5,021.89	35,403.66
Rentals & Leases	349,334.14	342,774.86	274,764.87	243,421.67
Utilities & Communication	80,237.65	95,309.44	103,320.90	139,164.65
Professional Services	143,378.74	498,708.63	435,267.96	152,207.48
Supplies and Operating Expenses	87,311.19	97,281.70	104,835.53	396,253.67
Transportation Equipment Operations	7,377.22	6,007.46	6,655.20	5,896.44
Grants & Benefits	46,176.58	41,097.80	48,522.80	54,150.00
Transportation Equipment Purchases		40,761.00	-	-
Other Equipment Purchases	28,843.31	98,503.72	50,502.48	123,685.55
Reversions to Education Trust Fund	15,844.68	6,088.80	5,714.00	6,944.57
Total	<u>2,797,517.53</u>	<u>3,326,716.31</u>	<u>2,860,225.06</u>	<u>2,882,719.68</u>
Excess (Deficiency) of Receipts over Disbursements	1,469,143.15	(930,582.22)	1,033,182.09	(1,025,005.98)
Cash Balance at Beginning of Year	<u>2,256,494.71</u>	<u>3,187,076.93</u>	<u>2,153,894.84</u>	<u>3,178,900.82</u>
Cash Balance at End of Year	3,725,637.86	2,256,494.71	3,187,076.93	2,153,894.84
Reserved for Unpaid Obligations	(13,142.46)	(29,781.14)	(646,006.38)	(336,566.66)
License Fees Reserved for Next Year's Operations (1)	<u>(1,546,620.45)</u>	<u>(910,563.99)</u>	<u>(1,707,527.75)</u>	<u>(750,312.63)</u>
Unreserved Cash Balance at end of Year	<u>\$ 2,165,875</u>	<u>\$ 1,316,150</u>	<u>\$ 833,543</u>	<u>\$ 1,067,016</u>

(1) Due to the board's biennial licensing period, one-half of licensing revenues are reserved for the subsequent year's operations.

Receipts vs. Operating Disbursements* (Chart)



**Operating disbursements do not include reversions to the Education Trust Fund.*

QUESTIONNAIRES

Board Member Questionnaire

Questionnaires were mailed to all thirteen board members. Eleven responded.

Question #1

What is the most significant issues currently facing the *Board of Nursing* and how is the board addressing these issues?

“Discipline-the Board has developed a system for expedient handling of discipline problems that is one of the best in the U.S. We do an excellent job in this area that protects the public and applies disciplinary equitably. 2) Changes in health care delivery as new technologies emerge and the nursing shortage grows-the Board is proactive in studying trends and initiating projects to involve all stakeholders in potential solutions”.

“Nurse shortage: Rule changes, hiring director to lead research into workforce issues, advisory meetings to discuss and bring issues into the open, education to state etc., related to shortage. Improving licensure process for new nurses coming to Alabama”.

“Care delivery models within changing healthcare environments-this is being evaluated through group work/discussions, meetings with special groups that represent care in the environment and review of other State’s law. Raising the level of practice to further protect the public-the Board gives direction to Board staff in follow-up practice issues. The Board has increased communication/evaluation to the public and licensed staff re: practice issues”.

“The nursing shortage: ongoing research and plan development for maintaining presenting practicing nurses and enhancing opportunities for students entering nursing schools. Protection of the public in the State of Alabama through the enforcement of appropriate disciplinary measures. Educational issues for nursing: must meet criteria of board’s accreditation programs”.

“ Most significant problem facing board, along with the nurse shortage problem and (illegible) a center for nursing-staffing and gaining financial support. 2) Discipline nursing-answer (illegible) continuing education update (illegible) to keep updating nurses at protecting the public”.

“The Board of Nursing is currently looking at the following issues that could impact practice in Alabama: 1) multi-state licensure, 2) congruence between practice and education, 3) nursing workforce shortage, 4) continued competency in nursing, 5) protection of the public through appropriate discipline”.

“Nationally-the nursing shortage, which will change the field of nursing. The board is studying the idea of a nursing center that will address the nursing shortage and other issues. State-the responsibility of safe practitioner through discipline. Our charge remains as always”.

“Regulation of Advanced Nursing Practice; 2) How to adapt/provide for public protection in the face of high community need and access to care-working with various constituencies, gathering information and drafting regulations”.

“The board recently revisited the rules and made major changes to address regulation and public protection”.

“The Board of Nursing is currently dealing with many issues that directly impact licensure and public safety. The Board is collecting data and analyzing the impact of multi-state licensure upon public safety. Congruence between education and clinical practice is also an issue of concern. Education must prepare competent graduates, but health care agencies must also utilize new graduates appropriately to assure public safety. This issue is being investigated through a joint committee. The Board is also currently assessing the need to revise the rules regarding delegation of certain skills to non-licensed personnel in a community setting while at the same time ensuring public protection”.

“One issue currently under debate relates to the delegation of medicine administration to unlicensed assistive personnel. The board has previously issued rules regarding this issue for school nurses and assisted living facilities. With the changing face of health care and a move toward community health care, the board is debating how to continue to protect the public through its rules and at the same time address the critical shortages of health care workers in many rural areas. In group homes, the board is dealing with the issue of who may provide medicine that will assure the safety of the patient when there are not health professionals available on a daily basis and how that may impact the responsibility of nurses involved in that care. We have clearly delineated assisting with medication administration and invasive procedures, which may not be delegated. A second issue is how to address the nurse shortage and its impact on new models of nursing care. For example, with new technology, it may be possible for a nurse to deliver care “virtually” and not be present with the patient. The board is attempting to address what impact might this have on licensing, supervision, and does it foster health and safety of the patient. The board has also authorized a Center for Nursing within the agency to begin to address the nurse shortage by analyzing supply and demand data. But the Center, which was authorized many months ago, is not functional due to delays by the State Personnel Department in releasing the nurse researcher position. A third general issue relates to board rules. The board has within the past three years reviewed and revised all its administrative code to move the agency toward evidenced-based decision making and these rule changes have recognized the need for flexibility in the rapidly changing arena of health care and the need to assure public safety and welfare. The board has debated whether a number of ‘new’ procedures should be part of a nurse’s scope of practice or if it is the practice of medicine and therefore the domain of a physician. With ever changing drugs and the associated drug protocols, this will be an ongoing issue for the board. A fourth issue relates to discipline and chemical dependency issues. Recognizing that discipline by itself will not treat addiction, the board is working to develop models for treatment recommendations based on medical recommendations from an Addictionologist. The board has authorized the hiring of this position but as of yet the position has not been authorized by the State Personnel Department. Another issue that we are attempting to address is the licensing of impaired nurses. The question is whether to issue a limited license to practice for a nurse who may be impaired. This would require a tremendous

amount of oversight and review to enforce. We are still wrestling with whether standards of practice rules will allow nurses who have or develop some impairment to regulate themselves without the board issuing a limited license. Finally, we have just begun to address the issue of medication errors in practice. The board conducts an annual Summit to bring interested parties (e.g., nurse educators, nurse practitioners, nurse administrators) together for a focused discussion of hot issues before the board and the nursing profession. In the past the Summit has been focused on the nurse shortage, practice-education partnerships, and this year's Summit will address medication errors".

Question #2

What changes to the *Board of Nursing* laws are needed?

"Alabama continues to have some of the most conservative and restrictive laws in the U.S. This is particularly true in the area of regulation of advanced practice. To meet the growing health care needs of underserved citizens, our law should be revised".

"Educational changes related to teaching instructors; 2) LPN practice needs to be opened up; 3) graduate education needs to be regulated to help with a standardized curriculum".

"Senate Bill 149 (Arrest powers to BON Investigators). This bill was not passed this year. This would assist the Board with a more rapid gathering of information in follow up to discipline cases".

"We are just completing a thorough rule and law and regulations change. However this is ongoing within the Board of Nursing".

"Continual update".

"The Board of Nursing has been in the process of reviewing the Administrative Code and updating rules to reflect today's issues and current health care environment. These rules are now on a three year cycle for review. The board is currently looking at community providers and health care and how they impact public safety".

"With the recent rewriting and updates of rules, we are up to date and in line with the law. The law drives the rules of the Board of Nursing".

"Changes are needed that address restrictive Advanced Practice interpretation of statutes. Alabama's laws are the most restrictive in US at the time when citizens lack access to car".

"There are no changes needed as far as I know".

"A major concern is that Board investigators by law do not have the power to arrest".

"Legislation was recently introduced but was not acted upon by the Legislature".

“The Alabama Nurse Practice Act has served the state well since its passage in 1965 and subsequent reauthorization. However, there have been some changes within the society that have an impact on how the law is currently applied. For example, the method of appointing board members through a designated nursing organization (ASNA) creates a chilling effect for nurses who may not belong to that organization. At the time of passage, I would assume that there were not as many nurse organizations as there are today. There might be a better way for the Governor to receive nominations for board positions than the current structure. A second area of possible revision has to do with the education of nurse assistants. Currently the education of nursing assistants is under the authority of the Department of Public Health, which authorizes the designation of certified nurse assistant. With changes in nursing education in general, it might serve the public better if the Board of Nursing served as the oversight agency for the education of nursing assistants. Finally, with changes in technology, the Nurse Practice Act might be reviewed to be consistent with the ability of nurses to renew their licenses online and the use of electronic signatures and other recently developed technologies”.

Question #3

Is the *Board of Nursing* adequately funded?

11 Yes _____ No

“We are self-contained; the board is funded by fees”.

“The Board of Nursing, by law, may not receive any funds from the state’s General Fund (Section 34-21-4; “All funds and revenues of whatever kind authorized or collected under the provisions of this chapter or the regulations of the board shall be collected by the board and shall be handled in accordance with existing regulations and accounting procedures of state departments and deposited in the board’s trust fund in the state treasury. Disbursements and withdrawals of such funds by the board shall be made in accordance with existing regulations and accounting procedures of state departments. *The board shall pay all of its expenses from its own funds, and no expenses shall be borne by the state of Alabama from general funds of the state.*”). The Board of Nursing has been conservative in its fee structure and administrative fine structure and therefore operates very closely to budget. An inspection of budgets and actual expenditures reveals that the Board of Nursing is close in estimating its operating expenses. All funds are generated by fees and fines for the operation of the Board. The law requires a two-year license on alternating years for LPN and RN nurses. There are over 44,000 RN’s in the state and only 17,000 LPN’s; therefore the collections for license renewal vary from year-to-year. Note: Recent changes to our licensing fees will ameliorate some of these variances. During the LPN renewal cycle, there is a shortage of funds relative to expenditures and during the RN renewal cycle there is an overage of funds. Since the Board is able to carry over its funds, it is able to operate during the beginning months of those years when renewal fee collections are low”.

Question #4

Is the *Board of Nursing* adequately staffed?

Yes 8

No 3

“We have a need to fill an addictionologist position and nurse researcher position. The board staff is truly remarkable in the volume of work that they handle on a day-to-day basis. Ms. Lee does an excellent job in her executive director role”.

“Yes. We do need to have a physician to help with the chemical/mental nurses who must be evaluated for practice”.

“Yes, however, we have experienced delays in State Personnel’s approval of Addictionologist and Nurse Researcher for Center for Nursing”.

“We are currently trying to fill two board positions we feel are critical to public safety, an addictionologist and a director of the Center for Nursing”.

“Yes, we have two positions we are waiting on to be approved from the Personnel Department. These two positions will complete the staff and we will be able to perform most of the needed services in house”.

“Yes, with approval of new positions. Staff is efficient and helpful”.

“Yes, there is adequate staff in carrying out day-to-day operations”.

“The Board of Nursing currently needs two additional staff: An Addictionologist and a Nurse Researcher. Both position requests have been forwarded to the State Personnel Office”.

“The Board of Nursing, as an agency, is adequately staffed under the organization charts approved by the Board. However, with the inexcusable delays in getting positions through the State Personnel Department, it is not operating as efficiently as it could. The Board authorized and requested a director for a Center for Nursing over a year ago and the position has still not been released by State Personnel. The same is true for an Addictionologist (MD) position as part of our Voluntary Discipline protocols as required by the Nurse Practice Act. It is very difficult to address personnel needs such as the Center for Nursing director in a timely fashion when our personnel requests are not acted on in a timely and efficient manner by other state agencies. The Board authorized the Center for Nursing to address supply and demand issues related to the nursing shortage. Without much sarcasm, by the time State Personnel acts on our request, the shortage will be over! This lack of cooperation among state agencies is unconscionable”.

Question #5

What is the purpose of your fiscal year end balance of unobligated funds?

“The Board of Nursing is funded through licensure fees and other fees. Since the agency does not receive state funds, end-of-year unobligated funds need to ensure ongoing/future financial solvency. Thank you for this opportunity”.

“To carry the organization over through the LPN renewal period, which does not generate the same amounts of funds”.

“The FY end balance varies year to year due to RN and LPN renewal years. The RN renewal yields higher revenues, which are placed in the BON Trust to accommodate the LPN renewal year (which yields lower revenues). The funds balance and the BON and staff have an operating budget with minimal variance”.

“Revert back to the Trust fund for the operations of the Board for the next year”.

“Because of more RN licensure than LPN. Funds from the renewal year of RN’s has to help fund the lower LPN number year”.

“Revenue is based on renewal of LPN and RN licenses. These licenses are renewed on opposite years. Revenue from LPN renewal is significantly less than the RN renewal years. The carry-over funds from RN renewal allow the board to cover the expenditures during the LPN renewal years. Because the law prohibits the board from receiving General Funds dollars, the board would have to request a legislative appropriation to cover expenditures during the LPN renewal period if the carry-over funds were not available”.

“Because we are funded by fees from nurses, we have one year (RN renewal) when the funding is good. The next year (LPN renewal), we don’t take in as much and the money is used to continue the functioning of the ABN”.

“Funds need to stay in budget for following year due to cyclic drops in operating budget because LPN years of renewal do not produce adequate revenues-as to RN renewal years. There must be a way to keep operating expenses balanced”.

“These funds are used to keep accounts in order during renewal periods”.

“It is crucial that the unobligated fund balance be retained in the Board of Nursing budget. Income from LPN license renewal is much less than that generated from RN renewal. Thus, the balance from RN renewal years is essential to cover the deficit in LPN renewal years. By statute, the Board cannot secure funds from the general fund without a change in statute, thus maintaining the unobligated funds at the end of RN license renewal years is essential”.

Board Member Questionnaire

“As pointed out in question (3), the Board operates on the fees and fines collected in performing the duties assigned it under the Nurse Practice Act. All funds are deposited in the Board’s Trust Fund and not the state’s general fund. When, based on the renewal cycle, there is a year end balance; those funds are reverted to the Board’ Trust Fund for operations during the next fiscal year. It is critical that the cyclical nature of the funds collected is understood and why such year end balances are not really unobligated.”

Registered Nurse Questionnaire

Questionnaires were mailed to one hundred registered nurse licensees. Forty-nine responded.

Question #1

Do you think regulation of your profession by the *Board of Nursing* is necessary to protect public welfare?

43 Yes 2 No 1 Unknown 3 No Opinion

“I do. Just like any profession, someone needs to be in charge to ensure things are being done right”.

“I feel there needs to be a government for discipline. If a nurse is not practicing correctly, it affects public welfare”.

“Absolutely”.

“I feel that some regulation is needed”.

“Definitely”!

Question #2

Do you think any of the *Board of Nursing* laws, rules, and policies are an unnecessary restriction on the practice of your profession?

7 Yes 38 No 1 Unknown 3 No Opinion

“Especially things like RN suturing, RX for narcotics (NP)”.

Question #3

Do you think any of the *Board of Nursing* requirements are irrelevant to the competent practice of your profession?

9 Yes 34 No 6 Unknown

“ I feel CEU’s are irrelevant to our practicing nursing because you can get them in anything or just pay for a certificate”.

“CEU’s-it can be a class in basket weaving as long as the state approves it”.

Question #4

Are you adequately informed by the **Board of Nursing** of changes to and interpretations of board positions, policies, rules and laws?

___29___ Yes ___15___ No ___2___ Unknown ___3___ No Opinion

“Hard to understanding wording”.

“I believe the board sends out amendments”.

Question #5

Has the **Board of Nursing** performed your licensing and renewal in a timely manner?

___47___ Yes ___ ___ No ___2___ No Opinion

“All the time because I don’t wait until the last minute to have my license renewed. I value them”.

“Usually it is timely, except the year they changed over to plastic cards”.

Question #6

Do you consider mandatory continuing education necessary for competent practice?

___30___ Yes ___19___ No

“Because you can pay for them without learning anything. CEU’s seem to be only about making money”.

“Nurses are not required to get any CEU’s in the area of their practice”.

“Absolutely”.

“It’s important to know what’s up to date”.

“It is a waste of time. You get what you need on the job”.

“It probably broadens my knowledge in other areas”.

Question #7

Has the *Board of Nursing* approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

42 Yes 5 No 1 Unknown 1 No Opinion

“You have to find them yourself-plus I don’t think you should have to pay to take classes”.

“Classes are hard to find for nurses not working but maintain their license. Classes are also expensive”.

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the *Board of Nursing* doing to address the issue(s)?

“As an RN with LPN’s working under me, I feel that either the LPN should require further education or no longer offer (phase out) LPN certification diploma. I’m unsure how the Board views this”.

“Drug abuse by medical professionals, rehabilitation and monitoring”.

“Nursing shortages, higher salaries needed”.

“Law suits are #1. Nurses in long term care are in the direct line of fire”.

“Nursing shortage”.

“Since I now have my NP license, the most significant issue affecting my profession is reimbursement. I don’t know what the board is doing about it. NP’s are lobbying”.

“Short staffing, ease in which to further my education”.

“Nursing shortage. Board needs to do more to help with shortage”.

“Nursing shortage-don’t know what they are doing about it”.

“Nurse: patient ratio. Is the Board of Nursing doing anything to address this issue? Does each institution make these changes”?

“The most significant issues concerning the practice of nursing is 1) the shortages of nurses, 2) work place safety. I don’t really know what the Board of Nursing is doing about these issues”.

“Patient nurse ratio. At this time it is unknown to me what the board is doing”.

“Alabama Board of Nursing is not doing enough to address the nursing shortage. They need to poll all RN’s to see if they are working yearly”.

“Shortage/salary-nothing to my knowledge”.

“Nursing shortage, low pay scale”.

“Stress from heavy patient loads. Lower wage than surrounding states. Alabama needs a union for RN’s and LPN’s”.

“Allowing hospital to be under-staffed and expecting the same amount of safe care if there were adequate staff. By doing so the patients and staff are at risk. Not sure”.

“Nursing shortage, education”.

“Patient safety. The nursing shortage has birthed patient safety issues as well as overworked, underpaid nurses. Nursing is no longer an appealing career because of this. Not sure what is being done to address the problem”.

“Nurse to patient ratio. The fact that we are not viewed as professionals”.

“Staffing”.

“I would like to see the issuing of a universal licensing for nurses that want to travel from state to state to work. I truly hope that this will come about soon. I personally would obtain this licensing if it were available”.

“Staffing issues. I don’t know what they are doing”.

“I think we should have a union-to protect our rights. As far as I know, the ABN is not doing anything”.

“The nursing shortage and inadequate pay for nurses. I have no idea what they are doing”.

“Nurse to patient ratio. Overtime pay. Nursing shortage”.

“Caring for the elderly-lack of care and neglect”.

“Nursing shortage”.

“The nursing shortage that has been projected. I am unsure of the plan the Board of Nursing has to address this issue”.

“Allowing RN’s to work too many hours (concurrently) and working understaffed”.

“Not that I know of”.

“Responsibilities and duties within the scope of RNS. Updating on regular basis”.

Question #9

Do you think the *Board of Nursing* and its staff is satisfactorily performing their duties?

28 Yes 4 No 14 Unknown 3 No Opinion

“To some degree”.

“I think there should be a toll free number because when you call, you never get the person you need right away”.

Question #10

Has any member of the *Board of Nursing* or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

1 Yes 47 No 1 Unknown

Licensed Practical Nurse Questionnaire

Questionnaires were mailed to one hundred licensed practical nurses. Thirty-three responded.

Question #1

Do you think regulation of your profession by the *Board of Nursing* is necessary to protect public welfare?

31 Yes 2 No Opinion

“It ensures that nurses that are in active practice are competent and have the required knowledge to practice safely”.

“Regulations are always necessary in any profession”.

“It is necessary to protect public welfare but also to protect the nurses of this profession”.

Question #2

Do you think any of the *Board of Nursing* laws, rules, and policies are an unnecessary restriction on the practice of your profession?

3 Yes 27 No 1 Unknown 2 No Opinion

“I think the State of Alabama should allow more freedom for the nurse midwife”.

“But you have to regulate in some way so I can’t say I know a better solution”.

Question #3

Do you think any of the *Board of Nursing* requirements are irrelevant to the competent practice of your profession?

1 Yes 28 No 1 Unknown 3 No Opinion

Question #4

Are you adequately informed by the *Board of Nursing* of changes to and interpretations of board positions, policies, rules and laws?

18 Yes 8 No 6 Unknown 1 No Opinion

Question #5

Has the **Board of Nursing** performed your licensing and renewal in a timely manner?

25 Yes 1 No 4 Unknown 3 No Opinion

“Have not renewed license yet”.

“N/A only licensed since 2/04”.

“I am a new graduate and have not renewed yet”.

“I was very pleased”.

“I just received my license in March, so I haven’t been through that process yet”.

“They performed my licensing in a timely manner”.

“I had to travel to Montgomery, Alabama before I even received my temporary license. The office administered my license to me. It was never sent by mail and there was no explanation for that. I later received my permanent license in a timely manner after taking boards”.

“The process was a lot quicker than other states”.

Question #6

Do you consider mandatory continuing education necessary for competent practice?

28 Yes 2 No 2 Unknown 1 No Opinion

“But I don’t necessarily think credits for it are necessary. Hospitals and medical facilities and employers should provide all educational staff updates on a PRN basis”.

“I feel that people only attend these classes because they have to, not because they are actually going to retain it or even have the opportunity to implement it. Of course this does not apply to every person”.

Question #7

Has the **Board of Nursing** approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

21 Yes 3 No 7 Unknown 2 No Opinion

“There is one mandatory class I must attend this year and all its locations are at least hours from Huntsville-very inconvenient, in Florence or Birmingham”.

Question #8

What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the *Board of Nursing* doing to address the issue(s)?

“Nurses stealing narcotics. Not enough”.

“Salary of LPN’s in comparison to RN’s”.

“No opinion”.

“No problems at present”.

“Nursing shortage”.

“Unknown”.

“The practice of the nurse midwife. I think the BON will not allow this to be practiced as a lot of women would prefer”.

“Nursing shortage, low pay, CNS’a not willing to cooperate with LPN’s”.

“Changes regarding technology and disease processes. The board requires seminars and continuing education classes”.

“Maybe the nursing shortage-it wouldn’t hurt for the ABN to provide recruitment or tuition for Americans to go to nursing school. I paid lots for school and there are African nurses living here free just to work for our health facilities”.

“I think they have everything under control”.

“A clear definition of what an LPN’s role is. And how their role will increase as RN shortages increase”.

“I believe documentation may be the biggest issue in this profession. Nurses forget to do something but may chart that they did it anyways. I’m not sure what is being done about this issue”.

“I would like to see AL. participate in the National licensure program-I live in an area where I could easily work in AL., Ms., or Tn. and I would like to have that option without a lot of hassle and paperwork”.

Licensed Practical Nurse Questionnaire

“People are looking for anything or everything to sue no matter what. At this time I do not know or have any idea of the steps the Board of Nursing is doing”.

“Shortage of nurses. I don’t think the Board of Nursing can really fix this”.

“Shortage of nurses. I’m not sure what the Board is doing. Low pay scale”.

“The amount of boards and renewal”.

“Working short staffed”.

Question #9

Do you think the *Board of Nursing* and its staff is satisfactorily performing their duties?

 24 Yes 4 Unknown 5 No Opinion

Question #10

Has any member of the *Board of Nursing* or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

 28 No 4 Unknown 1 No Opinion

Advance Practical Nurse Questionnaire

Questionnaires were mailed to one hundred advanced practice nurse licensees. Sixty responded.

Question #1

Do you think regulation of your profession by the *Board of Nursing* is necessary to protect public welfare?

 54 Yes 5 No 1 No Opinion

“Absolutely. No one else is qualified”.

“However, it does appear that the board has its own agency and it does not always mesh with the public interest”.

“Setting the standard and screening the initial licensee are critical functions that the board provides in order to protect the public. It is however my personal and professional responsibility to stay “Top Notch” in my profession”.

“To some degree”.

“Regulation of RN practice is needed – regulation of CNS practice is not necessary because we practice within the nurse practice act (unlike NP or CRNA’s).”

“It’s tradition and expected. Most nurses would do the right thing, some need regulations”.

“We are already regulated by the American Association of Nurse Anesthetist. I do not feel that Board of Nursing is necessary to regulate the practice of a registered nurse but the certifying agency regulates the nurse anesthetist”.

“The AANA has in place already, the means to do that. Especially in light of the fact that anesthesia assistants practice anesthesia in this state”.

“AANA has strict regulations regarding CRNA(s)”.

“The practice of registered nurse, yes, but there is no additional regulations needed for the Practice of a Clinical Nurse Specialist”.

Question #2

Do you think any of the *Board of Nursing* laws, rules, and policies are an unnecessary restriction on the practice of your profession?

19 Yes 31 No 3 Unknown 7 No Opinion

“Relative to APN’s, the board seems to succumb to the Medical Association”.

“Removal of epicardial wires; prescriptive authority regulations; for CNS’s certification requirement, which begins 1/05”.

“There have been times that I felt the restrictions were inappropriate for advanced practice nurses”.

“Requiring Physician sponsor for licensure”.

“Some”!

“Criteria for practice of advanced nurses needs to be opened up for critique”.

“But very broad question (circled the word “any”)”.

“There is nothing wrong with requiring APN nurses to obtain six hours of pharmacology, but there is no mechanism by the board to let nurses know if courses are acceptable to the board. These courses should be pre-approved so that when you attend there is no question that it is acceptable in our “scope of practice”. This is open to discussion and the board will not review courses until you submit for recertification and then it is too late”.

“I do wish that the changes, practice regulations, etc. were disseminated better. Copies of entire regulations, restrictions for APN, RN, CNS, LPN written and available together”.

“In Article 5 of the Advanced Practice Nursing 34-21-81(4)(c), the requirement that a CRNA functions under the direction of a physician is not necessary and causes perceived liability that limits CRNA’s from contracts with hospitals and outpatient surgery centers. This also retards some CRNA’s from locating in Alabama because of the hardship it places on setting up an independent practice. We have an anesthesia provider group operating since 1990 and have had severe limitations on our ability to effectively compete for contracts because of this requirement. Many states do not have this requirement for practice as a CRNA”.

“Again, no additional restrictions/requirements beyond that of an RN are necessary”.

Question #3

Do you think any of the *Board of Nursing* requirements are irrelevant to the competent practice of your profession?

18 Yes 34 No 5 Unknown 3 No Opinion

“Certification for CNS’s”.

“At times. The field of Clinical Specialist with emphasis in cardiovascular is changing technically faster than anyone in an office can keep up with it. It is a daily challenge for me as a practitioner”.

“Restraint of trade issue by requiring physician sponsor for licensure – physician is necessary to practice but should not be for licensure”.

“National testing for advanced practice nursing rather than submission of portfolio documentation”.

“But very broad question (circled the word “any”).”

“Because CRNA’s have to abide by the requirements of the AANA (the certifying agency)”.

“Why do CNM’s & CRNP’s have to pay a higher fee than RN’s”?

“I want to know for sure what is required and I will get it done”.

“Without the competency requirements, it would not be possible to provide assurance to the public”.

“Alabama’s Board of Nursing needs to be up-to-date-standards as other Boards of Nursing”.

Question #4

Are you adequately informed by the *Board of Nursing* of changes to and interpretations of board positions, policies, rules and laws”?

38 Yes 13 No 5 Unknown 4 No Opinion

“Questionable, seems difficult to receive updates”.

“I receive a timely bulletin with updates. I also have online access”.

“It is even difficult to go on-line to get answers to specific policies, rules”

“Most of the time”.

“When I asked the board if they would send out notices of the need to send in your recertification card to the board and to whom I was told that it was our responsibility to do so. I asked how were all the CRNA’s in the state suppose to know who to send it to. I was informed they could call and ask. This being the first year this was required; I think notices should be sent. The girl was sarcastic that I talked with. I happen to be the Chief CRNA when I work so my employees have been informed what they are suppose to do”.

“We, the nurses, do not know what issues are up for debate. Board of Nursing may not be in ‘real’ world of hands on patient care-they are “educators” or “world of academia”. They are not as progressive as other states. Again, ability for positions, debate, and follow-up not adequately disseminated”.

Question #5

Has the *Board of Nursing* performed your licensing and renewal in a timely manner?

 53 Yes 5 No 1 Unknown 1 No Opinion

“However, last renewal year, I was audited for my RN license. I sent paperwork in for RN & CNS licensure renewal together. The CNS paperwork was lost and I had to submit it again. Additionally, I had to submit CEU information twice”.

“They are fair, announce renewal in a timely matter, etc”.

“Sometimes it seems to take longer then I think it should”.

“Most of the time”.

“ This has improved greatly. In prior years, one might wait 2 months for licensure or change in licensure related to change in sponsor during which time one could not work”.

“In 2003, I submitted all required documentation, but received a letter addressed to myself, but with another CNS’s name on the letter requesting additional documentation. I called the Board and they said they had everything they needed and would process my license renewal. They would not explain the letter to me”.

“Excellent job”.

“Although there was delay instituting the new cards with holograms”.

“They have been very helpful”.

“RN licensing”.

“With the exception of last time-2002. There were problems with the card printing company”.

“However, CNS renewal at such a high extra cost and paperwork required is too much! There is no need to continue documentation of the same job and requirements if your job description has not changed. It seems extra money and paperwork is for Ala. Board of Nursing one more way to change. Paperwork repetitive-especially if Board of Alabama does not clarify the role of CNS”.

“However, it is impossible to talk with a person at the board during the renewal period”.
“When you call the board, you cannot get past the automated answering service”.

“Always for 31 years”!

Question #6

Do you consider mandatory continuing education necessary for competent practice?

54 Yes 5 No 1 No Opinion

“It is my personal responsibility; I am accountable to God, myself, my patients/clients, and my employer. As a professional, CE is a daily responsibility. There is no way to count the credits. I’m interested in learning and using the knowledge obtained”.

“I don’t think practice has improved since C.E. was made mandatory. Most conferences are only reviews not new information”.

“But believe more home study”.

“But do not like CEU’s to be so specific, i.e. pharmacology”.

“Continuing education has become “big business” and the costs for required meetings are forever rising. I have attended excellent meetings that the ABN could not tell me if they would approve because they could not tell if it was within my scope of practice. Who would know if they don’t”?

Question #7

Has the *Board of Nursing* approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

46 Yes 11 No 2 Unknown 1 No Opinion

“The problem is often not with the BON, but with employers. The board will approve

valid offerings. Advanced Practice Nurses also use CME's (no offerings)".

"As advanced practice – nursing CEUs do not qualify for keeping National Certification, must be specific with CNMs or CME (Cat. 1)".

"I have extreme difficulty finding providers at my specialty level and content area to meet the board requirements and get little help when I seek it from the board".

"To my knowledge, they offer the anesthesia CEU's".

"Not for CRNA(s)".

"They tell me you must attend a "board approved course", but they don't approve courses".

"Very confusing. I have letters to prove they made the above statement".

"Board of Nursing needs to offer specific topics at little to no cost on essential and beneficial topics; also".

"What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the **Board of Nursing** doing to address the issue(s)"?

"The most significant issue is the dwindling supply of nurses. The BON approves educational programs; they cannot force applicants to those programs".

"The reimbursement of APN's from BCBS is a huge issue. The BON is not supportive of APN's for whatever reason".

"Shortage of RNs-I don't know what BON is doing in regard to this. 2) Title protection for APSs-BON is leading country in this aspect".

"Shortages of BSN level nurses at the bedside, shortage of "nurses" and nursing students entering the college program".

"Shortage of RN/LPN in work force delivering bedside patient care".

"Insurance reimbursement for advanced practice nurses. Not sure of ABON involvement".

"The collaborative practice requirements are outdated and unnecessarily restrict access to care for Alabama citizens. I am unsure how this issue is being addressed, if at all, but I think a task force to discuss APN issues, composed of a variety of people from all of the health care fields and consumers, should work on changing the code to fit with current practice systems, provider and public needs".

"The nursing shortage; not much of anything".

“Sponsorship – not controlled by BON unfortunately – is Board of Medical Examiner issue. 2) Certification – lack of understanding renewal of certification – leads at time to loss of licensure during regular licensure period”.

“The nursing shortage seems to occur in 7 to 10 year cycles. The Board of Nursing has facilitated license renewal via the Internet. I feel sure they are aware of the issues”.

“Reimbursement by Blue Cross Blue Shield of Alabama – not aware of any action”.

“Third party payment is a real problem for extended role nurses-the board may try to help but this is out of their range of duties”.

“The BON requires that I participate in a form of (CCA) CEU/cont. ed. tracking through my certifying agency ACNM despite the fact that there is a newer program required by ACNM for nurse midwives certified after a certain date (CMP). I must therefore participate in both programs-double documentation and double fees. I am not aware of anything being done to change this”.

“Nursing shortage-don’t really know”.

“Nursing shortage, recruiting encouraged earlier in Jr. High”.

“Lack of qualified RN; LPN; not enough educators to keep up with needed manpower”.

“Nursing shortage. Advanced practice issues-3rd party reimbursement, allowing advanced practice nurses to practice procedures trained and educated for. Other states are more progressive in this area”.

“Lack of insurance reimbursement”.

“The nursing shortage is not adequately being addressed but most importantly the changes in LPN and APN education being revised by the Dept. of Post Secondary needs investigating NOW”!

“Nursing shortage and working understaffed; unsure what the board is doing to address these issues”.

“The ridiculous way the Board of Nursing is requiring our CRNA license to expire at the same date as our National certification. Nationally we have until the 31st of July to obtain our cont. education points but since the state requires you to send in your recertification card prior to July 31st, you need to have your points prior to June to make sure you have enough time to get your card from the AANA-mail it to the board and get your new CRNA card, which then expires with your RN license (mine 12/31/04). The added expense of issuing this card for 5 months is ridiculous. I also think it is absurd that we are fined a late fee if the Board of Nursing does not receive our renewal money and form by December 1st when in fact our license doesn’t expire until December 31st. You are not late if it hasn’t expired”!

“Level of entry into the profession should be a B.S.N. No exceptions, no grandfather clauses, close APN schools”.

“Nursing shortage, low salary”.

“As a CRNP-reimbursement from ins. carrier. I think the board is working toward that goal”.

“1) Anesthesia assistants taking the place of CRNA’s in the state. 2) Nothing.”

“ Not being paid by BC/BS-BON has done nothing”!

“Inability to institute new technology or have adequate supplies for patient care due to budget restrictions”.

“I’m not sure the testing of new graduates is a true gauge of their competency”.

“Finding a certified physician in my area for collaborative practice-unknown what the Board of Nursing is doing about this personal problem”.

“Reimbursement-I am not sure of what the board is doing to help”.

“The introduction of AA’s to practice anesthesia. To my knowledge, the ABON has done nothing to address this problem”.

“Nursing shortage-I don’t think the board is interested in anything except “state perks and retirement. I am not sure they know what they are doing and when you call the board offices, they are all in meetings, have just stepped “out” or they want you to leave voicemail. Some of us work from 6 AM until-and voicemail will never work”!

“Nursing shortage”.

“The number of young people entering the nursing profession; the number of RN’s eligible to retire in the next 5 years; the average age of today’s workforce”.

“Determination of competencies required and which nurses may perform which functions in the changing health climate while protecting the public”.

“There is a discrepancy in hospitals, practice areas, ECF on role of clinical nurse specialist. CRNP can write medications which is okay prescription. My CNS certified wound, ostomy and continence nursing (CWOCN) should be enough to write orders for my specific practice and expertise (not antibiotics P.O. or I.V.) or (pain meds) general skin, wound, ostomy, continence prescriptions should be acknowledged by Board of Nursing as APN especially certified WOCN. Statewide, facilities are not cohesive about the ability of the clinical nurse specialist. I was CNS early 80’s where CRNP was not available. There is no need for any CNS to renew their license at an extra cost if there is not a significant benefit for it. Please have Ala. Board of Nursing

address the rights and privileges of CNS and CRNP. My administration keeps saying “according to Ala. Board of Nursing you cannot operate independently even with your specific expertise.” Please advise-non prescription items, etc”.

“1) Shortage of Nurse – encouraging young people to go into nursing. Pay has increased well over the years. 2) Needed reimbursement for APN’s by BCBS – negotiations are underway”.

“Removal of discriminating barriers to Advance Practice Nurse participation as providers on managed care organizations panels and reimbursement issues. Not aware of Board of Nursing doing much to address either issue”.

“The most significant issue facing our profession is the unnecessary restriction placed on our practice by the legislature and the dampening effect on the competitive healthcare market”. This causes increased healthcare delivery costs and hardships on especially the small rural hospitals and surgery centers”.

“Nursing shortage – I don’t know”.

“Malpractice insurance, 3rd party reimbursement, oppressive MD control of profession”.

“Third party reimbursement and the role of the Board of Medical Examiners input in reference to Advanced Practice”.

Question #9

Do you think the **Board of Nursing** and its staff is satisfactorily performing their duties?

___35___ Yes ___10___ No ___9___ Unknown ___6___ No Opinion

“Questionable relative to APN”.

“I have little need to interact with ABON now that I only work part-time and non-administrative duties”.

“Unable to answer yes/no. I have phoned the Board on several occasions during office hours and the phone was unanswered”.

“Takes too long to get response and process applications, etc”.

“Difficult to reach by phone”.

“Related to the above comment, the board needs to be involved now before this issue goes any further! (LPN, APN revision)”.

“There should be more representation for CRNA’s than a 70+ year-old CRNA”.

“They seem to make things harder on some specialties”.

“Could be better”.

“The people who answer the phones are nice, but the nursing staff is never available. I have only had one problem and question and I was not pleased. The tone was almost hostile when I finally got a return call”.

“ Have no idea what they do other than license, renewal and periodic meetings”.

Question #10

Has any member of the *Board of Nursing* or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

_____ Yes 60 No

“Spend more time regulating RN(s) and leave CRNA(s) the concern for AANA”.

“I have been licensed in several states and have never had any difficulty. I am so glad someone is asking these questions. At the moment, APN licenses are not issued with RN licenses as they are in other states. You have all these different licenses coming in at odd times of the year-what a mess! I am always concerned that I will miss paperwork or time limits and not know a license is up for renewal”.

“I personally feel that the Board of Nursing should check on staff for different offices in Northeast Alabama for those who are performing procedures and are not licensed by the State in any capacity”.

“I would appreciate the concerns and outcomes to be sent to members, especially RN, CNS, CRNP’s of Alabama for all the clarifications and changes that Examiners found or Sunset Committee needs to understand and change or will review and change. Thanks”!

Complainant Questionnaire

Questionnaires were mailed to one hundred complainants. Thirty-eight responded.

Question #1

Was your complaint filed with the *Board of Nursing* by?

25 Mail 8 Phone 1 Fax 4

Question #2

Was receipt of your complaint promptly acknowledged?

30 Yes 5 No 3 Unknown

If yes, approximately how long after you filed your complaint were you contacted by the *Board of Nursing*?

4 Immediately 19 Within 10 days 3 Within 20 days
5 Within 30 2 More than 30 days 3 Did not respond
4 Unknown

“Fairly soon, considering they only have four investigators but I feel I should have had a face-to-face interview. Can’t remember as I have misplaced my notes but in an estimate of 10 days. I feel the nurse should be under the State’s hiring instead of locals because of all the corruption in Cov. Co. I appreciate this questionnaire. At least it gives me an opportunity to express my complaints again”.

“I notified them 4 times before I got a response”.

“Until I called asking about the situation”.

Question #3

Was the employee who responded to your complaint knowledgeable and courteous?

25 Knowledgeable 3 Courteous 5 Neither 5 Unknown

“Except one time when he more or less indicated it was my son’s fault. Also [REDACTED], representative for our area and I feel the Alabama Legislature will just cover all this up as I understand he has lots of clout and plans to run for Gov. and this County Government & city will literally be in his control”.

Complainant Questionnaire

“Explained procedure, guided me though all the other agencies involved”.

Question #4

Did the *Board of Nursing* communicate the results of investigating your complaint to you?

 23 Yes 13 No 2 Unknown

“I was sent a letter stating the appropriate action would be implemented – in other words, the complaint was dropped because of the power of the Nursing Home”!

“Mostly when I would call, [REDACTED] called two times, I know, but one conversation, he advised I needed to turn loose of my son and indicated he was a drug addict, which at one time he was but, the Dr. had been working with him a year to slowly bring him down. My son is ADD as a child and it carries into adulthood and he had been trying to self medicate at one time. He was placed on Ritalin as a child by a pediatric”.

“Investigation is ongoing. Awaiting final outcome of criminal case. He is appealing the conviction to avoid losing his nursing license. This will make his 2nd conviction for assault”.

“Not completely until I called them”.

“I was informed I was not entitled to that information”.

Question #5

Do you think the *Board of Nursing* did everything it could to resolve your complaint?

 14 Yes 15 No 9 Unknown

“I was not called to testify if there was a hearing nor were my witnesses”.

“I talked and called [REDACTED], today 5/13/04, to find out results. He said it has gone to another person who will make a final decision. One inmate died one night after being brought in and placed in bed-no medical attention. He was incoherent. He should have been taken to hospital”.

“Yes, I believe they are doing everything while waiting on this criminal case”.

Question #6

Were you satisfied with your dealing with the *Board of Nursing*?

 17 Yes 15 No 6 Unknown

Complainant Questionnaire

“The gentleman I spoke with was kind to me and I believe he did what he could within the guidelines. A follow up on the nurse should still be done because she has attempted suicide and constantly harasses people including myself. No other police reports have been made since the complaint, but verbal abuse still continues every time I come in contact with [REDACTED]. Please check her medical records which will prove her mental imbalance”.

“No. The nursing home changed their records to show what was appropriate, not what happened. The nurses involved were not counseled or reprimanded. They received no punishment and are free to endanger another sick or nursing home patient’s life! As far as I am concerned, the Board of Nursing is a FARCE. Nurses hold every patient’s life, in their care, in their hands. If nurses are not held to high standards and if complaints against them are not taken seriously-then there is no need for license review and a Board of Nursing. If there was even a hearing about the nurses in my complaint-I was never asked to appear-the doctor who adamantly denied that he cancelled my mother’s Lusix – turned out to be the “House Doctor” for the Nursing Home! I would have liked to hear him testify to the Truth! Not protect a Nursing Home. Maybe some one needs to investigate the Nursing Board”!

“ There was never anything done about this complaint”.

“Overjoyed”!

“No. I have not received results of investigation”.

“No, they didn’t care, didn’t spend any time on it; thought I should be grateful for 1 hour of their time. Didn’t do anything about the nurse Randy and since my complaints about him, he has done more offenses that are probably on record. I wonder is he still nursing? Do your job and weed out the corrupt”!

“Yes, although they said that they found nothing to take action on, the hospital itself did an investigation and the employee I filed on is no longer working there and they found other problems, which they corrected or dealt with on internal investigation and now have a real good staff, teamwork and other improvements. Thank you for your time and concern”.

“No and I feel that the investigation has not been favorable or rather neutral to both sides as I know some facts of complaints of mine were hindered and my son’s Dr. completely told him to find another Dr. I feel my complaints were white washed by the personnel that was cooperating as I personally know and experienced some mistreatment when I asked for this cooperation. The Commissioner and Commission all stuck together like glue-they take care of each other. The County of Covington, City, et al, all run the whole county almost like Phenix City in early 50’s. There needs to be an undercover investigation by FBI of Covington County, City government, etc. The inmates are being treated unfairly”.

“No and yes. The complaint was acknowledged, but it was my word against the nurse and MD and they lied about my complaint and no action was taken, but the board did investigate the complaint”.

“Ongoing, but so far yes”.

“Yes, I can sleep at night”.

“NOT AT ALL! Three people witnessed this nurse man handle my mother, she respiratory arrested and died. He lied! He tied a 70 year-old frail lady to the bed, chest, hands and legs and she was not fighting or combative. She was scared to death! This nurse caused my mother’s early death. He was very mean to her and got by with it!!! The investigator with this case and the nurse who did this will have their day before God one day! You all could care less about the care of elderly, defenseless people! Not enough investigation was put into this case. This nurse flat lied and the hospital covered for him!!! May the Lord have Mercy on all involved. [REDACTED] the nurse who man handled a frail 70 year-old lady took her life before her time by his aggressive behavior toward her. She respiratory arrested because of his strong aggressive behavior toward her. She was scared to death of him. He was mean to her right before our very eyes! He got away with all of it. He tied her frail body to the bed chest, hands and legs without cause, out of pure meanness!! He made her last hours of life pure torment. She was afraid to even turn her head. You’ll never know the agony he put this old frail, defenseless lady through. He lied, said she cursed him. In 49 years of my life, my mother never said one curse word. She was a true Christian lady. Besides, she was on a respirator with an E + tube down her throat. How in the world do you talk with a tube down in your lungs making you breath? He covered up all his lies and evil ways he treated her unnecessarily. Everyone else covered for him! Everyone covered for him because they were in fear of losing their jobs, so we were told! This nurse does not deserve to take care of any elderly person. He is very dangerous, to the elderly and it will catch up with him one day. The investigation was just a joke! Just motions to cover. Not truly out for the real truth. The actions of this nurse are forever etched into our minds and y’all allow him to get by with it all! One day as we all grow old, this very thing could happen to us too. Who will really care for the truth then!!! If you don’t now, they won’t when our time comes either!! There was no justice done for what happed to this elderly defenseless person. None. But then who really cares any way, it was not their loved one. Could be one of theirs one day, then you’ll know then how it feels to live with the fact that an aggressive young controlling man takes advantage of a poor old defenseless elderly person forever etched in your mind. And they get away with it as if it did not happen! I know this my sound outrageous to you, but it is truly the truth. I pray the Lord gives this man a better job away from the elderly, so they won’t suffer at his hands anymore!!! The Lord will give him his just reward for what he did to this poor old lady and no telling how many others. I also pray this never has to happen to anyone else’s loved one. Nobody young or old deserves what he did to my mother, right before my eyes and others too if they would have just told the truth instead of being afraid of their job and afraid of man instead of afraid of the Lord above who can destroy body and soul!!! My mother was a precious child of God, who became a victim of an evil person, but I know life goes on and she is now in the arms of a man who will forever be good to her. She won’t have to be afraid of man anymore. She is with the Lord working for him now. Safe once again!!! If you really care about the true care of the elderly call me”.

“No. [REDACTED], RN, tricked me into allowing sedation even though I told him I did

Complainant Questionnaire

not want it. Immediately after starting the IV, he told [REDACTED] to leave and take care of another patient, leaving him alone with me. I paid a doctor and [REDACTED] Hospital more than \$2000 cash and the hospital allowed [REDACTED] to remain alone with me unsupervised when I was over sedated with an IV in my arm. I believe he put illegal chemicals or a virus in my IV. There were suspicious bumps in my arm for over a month. Moreover, for the last two years I have been ill-getting infection after infection. My memory has also been damaged. According to Nurse Supervisor, [REDACTED], it is common for male RN's like [REDACTED] to be left alone with heavily sedated females. In other words, no one controlled how much medication he actual gave me or if he put illegal things in my IV to use me as a guinea pig for medical research. Suspicious letters in my file suggest that I will develop leukemia. The same mentality that allowed researchers to withhold medical care for Black men in Tuskegee, AL for twenty plus years after penicillin-which could have saved their lives-became available. The Nursing Board person asked me where I would be going to get tested to see if [REDACTED] abused me. In other words, he was to going to notify the next hospital to conceal the truth. [REDACTED] should be put on administrative leave and you should have the FBI conduct an investigation so that you can find out what he did to me and save my life. I am very ill. [REDACTED] told me I was never to call [REDACTED] Hospital again”.

“Yes, thank you very much. God bless”.

“No, because I, [REDACTED], never had a chance to speak to an investigator and witnesses were never interviewed; so this is what makes my complaint unfair. Because, I, [REDACTED] informed those people not to put their hands on me”.

“Yes, I was satisfied with the result”.

“The investigator has been extremely good in dealing with this matter-even though it is unresolved, he keeps me informed”.

“I feel as they thought I was just complaining about the person in question. And it was really not a big deal to them. One comment was “are you just trying to get her fired.” My answer was “no”. I just want this kind of person to be corrected in the way she treated me and my wife”.

“No!! May 21, 2004 To Whom It May Concern: Yes, I did make a complaint to the Board of Nursing. I cannot believe that you let people that call themselves nurses, work and take care of the ill. Why do places that are hiring not check the background of where and why a nurse has been fired or left their last job, as in the case of the nurse I turned in. The nurse I filed a complaint on has a history a mile long with employers and being fired. The one I am most mad about is when she got fired from [REDACTED] Nursing Home (get a copy of the records and read them) and nothing was done to her but a slap on the hand. No where she has worked since that job have they bothered to check her record. I have said it before and I say it now, this woman that calls herself a nurse is not fit to be a dog sitter, much less take care of the elderly!! She has been declared an unfit mother, that could cause harm to her own children. She does not even have custody of them. Now is this a good nurse? I have talked to a lot of the nurses she has worked with and they all tell the same story over and over. Can everyone be so wrong and this

Complainant Questionnaire

one nurse be so good? I hope that I never have to go in a nursing home because they don't care what they hire or check their backgrounds. These places need to start checking these nurses closer. Yes, there are good ones but there are more bad ones!! Please I beg you to start doing something about these bad nurses!! Thank you for your time and reading my complaint and I look forward to hearing from you soon".

"I thought that the investigation was initiated and over with much too quick to be an investigation".

"Absolutely not! Nurse involved should have been disciplined for her very inappropriate behavior to my husband who had a severe CVA-totally paralyzed on left side with brain damage and her statement to him was "you're just being hard-headed and not trying. Get used to me because I'll be here everyday and if I don't make you mad at least once a day, I haven't done my job." (end of quote) Do you think this appropriate statement to any patient let alone one in his condition! Things of this nature is why you have so much nursing abuse in our nursing home. They know they can abuse patients with no results".

"No. I felt they did not give me the right to defend myself when I was physically attacked"

"Satisfied that they responded to the complaint. Was not informed of outcome".

"No, the negligent nurse got away with neglecting a baby, because another nurse who saw it said she didn't see it. It had been reported to Pat Hill before it was reported to the Board of Nursing, which proves it's true."

"No, I do not feel like my complaint was taken seriously".

"To a degree. I wish hospitals were more accountable for reporting nurses and other employees when an incident occurs".

APPENDICES

Statutory Authority

CHAPTER 19. MIDWIVES.

§ 34-19-3. License for practice of nurse midwifery required; continuation of practice of lay midwifery.

- (a) It shall be unlawful for any person other than a licensed professional nurse who has received a license from the State Board of Nursing and the Board of Medical Examiners to practice nurse midwifery in this state. Any person violating this subsection shall be guilty of a misdemeanor.
- (b) Nothing in subsection (a) of this section shall be construed as to prevent lay midwives holding valid health department permits from engaging in the practice of lay midwifery as heretofore provided until such time as said permit may be revoked by the county board of health. (Acts 1976, No. 499, p. 624, § 1.)

§ 34-19-4. Application for license.

A person desiring to obtain a license to enter into the practice of nurse midwifery shall make written application to the Board of Nursing and the Board of Medical Examiners. Every applicant for a license to practice midwifery must be a licensed registered nurse and possess a certificate from a school for nurse midwives recognized by the American College of Nurse-Midwives. (Acts 1976, No. 499, p. 624, § 2.)

§ 34-19-5. Issuance, renewal, suspension and revocation of licenses; fee.

- (a) The State Board of Nursing and the Board of Medical Examiners may issue or refuse to issue or, having issued, may suspend or revoke licenses to practice nurse midwifery under the provisions of this chapter in accordance with such rules and regulations promulgated under the provisions of this chapter.
- (b) Licenses issued under this chapter shall be renewable biennially at such time and in such a manner as prescribed by the State Board of Nursing and the Board of Medical Examiners.
- (c) Suspension and revocation of licenses shall be by the State Board of Nursing and the Board of Medical Examiners for due cause after investigation.
- (d) The State Board of Nursing and the Board of Medical Examiners are hereby authorized to levy and collect a fee for the issuance and renewal of licenses to practice nurse midwifery pursuant to this chapter. (Acts 1976, No. 499, p. 624, § 3; Acts 1989, No. 89-243, p. 349, § 3.)

§ 34-19-6. Practices which may be performed by licensees -- Generally.

A person holding a license to practice midwifery issued by the State Board of Nursing and the Board of Medical Examiners may provide maternity care to patients, including prenatal care, deliver normal pregnancies and administer postnatal care. The above care will be done under appropriate physician supervision.

(Acts 1976, No. 499, p. 624, § 6.)

§ 34-19-10. Promulgation of rules and regulations, procedures, standards, etc., for nurse midwives.

The State Board of Nursing and the Board of Medical Examiners shall have the authority and power to make and promulgate such rules and regulations as may appear necessary and proper to carry out the purposes of this chapter, including, but not limited to, minimum educational and physical requirements for nurse midwives, the procedures and techniques to be employed in the practice of nurse midwifery and the ethical standards to be observed by nurse midwives.

(Acts 1976, No. 499, p. 624, § 4.)

§ 34-21-1. Definitions.

For purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

(1) Board. The Board of Nursing created hereunder.

(2) Advisory councils. Advisory councils provided for under the terms of this chapter.

(3) Practice of professional and practical nursing. Nursing is a profession the practice of which is defined as:

a. Practice of Professional Nursing. The performance, for compensation, of any act in the care and counselling of persons or in the promotion and maintenance of health and prevention of illness and injury based upon the nursing process which includes systematic data gathering, assessment, appropriate nursing judgment and evaluation of human responses to actual or potential health problems through such services as case finding, health teaching, health counselling; and provision of care supportive to or restorative of life and well-being, and executing medical regimens including administering medications and treatments prescribed by a licensed or otherwise legally authorized physician or dentist. A nursing regimen shall be consistent with and shall not vary any existing medical regimen. Additional acts requiring appropriate education and training designed to maintain access to a level of health care for the consumer may be performed under emergency or other conditions which are recognized by the nursing and medical professions as proper to be performed by a registered nurse.

b. Practice of Practical Nursing. The performance, for compensation, of acts designed to promote and maintain health, prevent illness and injury and provide care utilizing standardized procedures and the nursing process, including administering medications and treatments, under the direction of a licensed professional nurse or a licensed or otherwise legally authorized physician or dentist. Such practice requires basic knowledge of the biological, physical and behavioral sciences and of nursing skills but does not require the substantial specialized skill, independent judgment and knowledge required in the practice of professional nursing.

Additional acts requiring appropriate education and training may be performed under emergency

or other conditions which are recognized by the nursing and medical professions as proper to be performed by a licensed practical nurse.

(4) Licensed professional nurse. A person who is currently licensed to practice professional nursing.

(5) Licensed practical nurse. A person who is currently licensed to practice practical nursing. (Acts 1965, No. 867, p. 1615, § 2; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 1.)

§ 34-21-2. Board of Nursing generally.

(a) There is hereby created the Board of Nursing, which shall be composed of 13 members to be appointed as hereinafter provided for, which shall have the duties and powers hereinafter enumerated. In order to insure continuity of administration, the nine board members provided for by Section 3 of Act No. 427, Regular Session 1975, shall continue to serve to the completion of the term for which they are serving. The Governor shall within 60 days of January 1, 1984, appoint a tenth member who shall be a licensed practical nurse for a term of four years from a list of nominees furnished him by the Alabama Federation of Licensed Practical Nurses, Incorporated as hereinafter provided. As the terms of all board members expire, their successors shall be appointed for terms of four years each. Vacancies in unexpired terms shall be filled in the same manner as original appointments are made. No member shall be appointed to more than two consecutive terms of four years each. Eight members of the board shall be licensed professional nurses, and four members of the board shall be licensed practical nurses. The Governor shall appoint the members of the board who are licensed professional nurses from a list of nominees who are selected by the Board of Nursing Nomination Committee and furnished to the Governor by the Alabama State Nurses' Association, and such list, when furnished, shall contain at least twice the number of nominees as there are appointments to be made or vacancies to be filled. The Alabama State Nurses' Association shall on or before December 1 of each year, or at such other times as necessary, furnish the Governor with a list of licensed professional nurses qualified for appointment to the board. In the nominating and appointing process, due care will be taken to ensure the maintenance of qualified representation from the fields of nursing education, nursing administration, clinical nursing, and advanced practice nursing. The Governor shall appoint two of the members of the board who are to be licensed practical nurses from a list of nominees furnished him by the Board of Directors of the Licensed Practical Nurses Association of Alabama, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The Board of Directors of the Licensed Practical Nurses Association of Alabama, shall on or before December 1 of each year in which the term of office of a board member or a nominee of said Board of Directors shall expire or at such other time as necessary, furnish the Governor with such list of licensed practical nurses qualified for appointment to the board. The Governor shall appoint two members on the board who are to be licensed practical nurses from a list of nominees furnished him by the Board of Directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, and such list, when furnished, shall contain at least twice the number of nominees for the vacancies to be filled. The Board of Directors of the Alabama Federation of Licensed Practical Nurses, Incorporated, shall on or before December 1 of each year in which the term of office of the board member filled by the nominee of such board of directors shall expire, or at such other times as necessary, furnish the Governor with a list of licensed practical nurses qualified for appointment to the board. The

Governor may remove any member from the board for neglect of duty of the board, incompetency or unprofessional or dishonorable conduct. Each person appointed to the board as a licensed professional nurse shall be a citizen of the United States and a resident of the State of Alabama and shall have these additional qualifications: be a graduate of a state-approved educational program for the preparation of practitioners of professional nursing; be a currently licensed professional nurse in Alabama; have a minimum of five years' successful nursing experience in an administrative, teaching, clinical capacity, or advanced practice and be actively engaged in professional nursing in this state immediately preceding and during appointment. Each person appointed to the board as a licensed practical nurse shall be a citizen of the United States and a resident of the State of Alabama and shall have these additional qualifications: hold a diploma from an accredited high school or its equivalent; be a graduate of a state-approved vocational educational program for the preparation of practitioners of licensed practical nursing; be a currently licensed practical nurse in Alabama; have a minimum of five years' successful nursing experience and be actively engaged in licensed practical nursing in this state immediately preceding and during appointment. There shall be one member of the board who is a consumer and who is not a member of any of the health care professions. The consumer member shall be appointed by the Governor effective January 1, 1998, and shall serve for a term of four years. His or her successor shall be appointed in a like manner at the expiration of each term or upon a vacancy for the remainder of an unexpired term of office. The consumer member of the board shall have, presently or formerly, no direct financial interest in any health care facility, profession, agency, or insurer, or be or have been a health care worker. There shall be two advanced practice nurse positions to be filled effective January 1, 1998, in the same manner as all other professional nurse positions. One advanced practice nurse position shall be served for an initial five-year term and successors shall serve four-year terms. The remaining member appointed to an advance practice nurse position shall serve an initial four-year term and successors shall serve four-year terms.

(b) All members of the board shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members.

(c) The board shall have the following powers and perform the following duties: It shall meet at least once a year and shall, at its organization meeting and at its annual meetings thereafter, elect from its members a president, a vice-president and a secretary. It may hold such other and additional meetings during any year as it deems necessary for the transaction of business. A majority of the board, including one officer, shall constitute a quorum at any meeting.

The board is authorized to:

(1) Adopt and, from time to time, revise such rules and regulations, not inconsistent with law, as may be necessary to carry out the provisions of this chapter.

Nothing in this chapter shall be construed as limiting the rights of affected parties to appeal decisions of the board with regard to rules and regulations promulgated hereunder.

(2) Prescribe standards and approve curricula for nursing educational programs preparing persons for licensure under this chapter.

(3) Provide for surveys and evaluations of such programs at such times as it may deem necessary.

(4) Approve such nursing educational programs as meet the requirements of this chapter and the board. Nothing in this chapter shall be construed to diminish the power of the State Board of Education or other constitutionally or legislatively established state agencies to govern the schools under their respective jurisdictions.

- (5) Deny or withdraw approval from educational programs for failure to meet prescribed standards provided, that withdrawal of approval shall be effected only after a hearing in accordance with board rules and regulations.
 - (6) Examine, license and renew the licenses of duly qualified applicants and require employers to submit listings of personnel covered by this chapter to the board upon request.
 - (7) Conduct investigations, hearings and proceedings concerning alleged violations of this section or of the rules and regulations of the board.
 - (8) Have the power to issue subpoenas, compel the attendance of witnesses and administer oaths to persons giving testimony at hearings.
 - (9) Cause the prosecution of all persons violating the provisions of this chapter and incur such necessary expenses therefor.
 - (10) Keep a public record of all of its proceedings.
 - (11) Keep a register of all licensees.
 - (12) Make an annual report to the Governor.
 - (13) Appoint and employ a qualified person, not subject to the state Merit System, who shall not be a member of the board, to serve as executive officer.
 - (14) Define the duties and fix the compensation for the executive officer.
 - (15) Employ such other persons as may be necessary to carry on the work of the board and provide for appropriate bonding of employees; regular employees of the board shall be employed subject to the state Merit System in effect on January 1, 1966, or at the time of employment.
 - (16) Employ consultants, specialists, counsel or other specially qualified persons under contract or on a part-time basis to assist it in administering this chapter and without regard to the state Merit System in effect on or after January 1, 1966, and to pay for the services of such persons.
 - (17) Accept gifts and grants upon terms and conditions imposed by it through official resolutions.
 - (18) Perform such other duties, not inconsistent with law, as required by this chapter to foster and improve nursing and the regulation thereof and the public health of this state.
 - (19) Expend funds of the board in exercising its powers and duties and in administering this chapter.
 - (20) Determine and collect reasonable fees.
 - (21) Adopt standards for registered and practical nursing practice and for continued competency of licensees.
 - (22) Join organizations that develop and regulate the national nursing licensure examinations and promote the improvement of the legal standards of the practice of nursing for the protection of the public health, safety and welfare.
- (d) The executive officer, employed by the board as provided for herein, shall be a citizen of the United States and a person of the highest integrity and shall possess these additional qualifications: be a licensed professional nurse in Alabama or eligible for licensure, be a graduate of a professional nursing program approved by the state in which the program was completed, hold a master's degree, and have had a varied experience in nursing, including at least five years' experience in an administrative or teaching capacity.
- The executive officer shall be bonded for the faithful performance of the duties of the office in the sum of not less than \$5,000.00, and the premium of the bond shall be paid out of the funds of the board.

(e) Each member of the board shall receive the same per diem and travel allowance as is paid by law to state employees for each day's attendance at the board meetings incurred in the discharge of his or her duties as a board member in addition to any daily compensation or allowance, if any, as may be provided by the board, in such amount as may be determined by the board. Also, any member of the board engaged in duties under the direction of the board shall receive the said per diem and travel expenses and daily compensation or allowance authorized by the board. (Acts 1965, No. 867, p. 1615, § 3; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 2; Acts 1989, No. 89-243, p. 349, § 3; Acts 1997, No. 97-598, p. 1054, § 1.)

§ 34-21-3. Advisory councils.

The board shall appoint advisory councils as the board shall, from time to time, deem advisable to represent health disciplines and consumers. Each member of such advisory council appointed by the board shall receive \$30.00 per day for attendance at meetings of such advisory council or for attendance at the board meetings or otherwise engaged under the direction of the board, together with necessary travel and other expenses incurred in the discharge of such duties. (Acts 1965, No. 867, p. 1615, § 4; Acts 1975, No. 427, p. 1024, § 1.)

§ 34-21-4. Funds of board; transfer of duties, powers, etc., of Board of Nurses' Examiners and Registration to Board of Nursing.

All funds and revenues of whatever kind authorized or collected under the provisions of this chapter or the regulations of the board shall be collected by the board and shall be handled in accordance with existing regulations and accounting procedures of state departments and deposited in the board's trust fund in the State Treasury. Disbursements and withdrawals of such funds by the board shall be made in accordance with existing regulations and accounting procedures of state departments. The board shall pay all of its expenses from its own funds, and no expenses shall be borne by the State of Alabama from general funds of the state.

All the rights, duties, powers and authority now or hereafter vested by law in the Board of Nurses' Examiners and Registration are hereby transferred to and vested in the Board of Nursing, and all rights, powers, duties and authorities, whether clerical, executive, administrative, judicial or quasi-judicial, now vested by law in the Board of Nurses' Examiners and Registration, shall be vested in the Board of Nursing hereby created and shall be exercised by it, together with any additional rights, powers and authorities herein given or created by this chapter. The jurisdiction, functions, funds, effects and personnel of the Board of Nurses' Examiners and Registration are hereby transferred to the Board of Nursing and covered with their current status. No unexpended funds of the Board of Nurses' Examiners and Registration or the Board of Nursing shall ever revert to the State of Alabama but shall remain the property of the Board of Nursing.

(Acts 1965, No. 867, p. 1615, § 9.)

§ 34-21-5. Nursing educational programs.

An institution desiring to conduct a nursing educational program to prepare professional or practical nurses shall apply to the board and submit evidence that: It is prepared to carry out the prescribed minimum standards to educate students in professional nursing or in practical nursing

and that it is prepared to meet such other standards as shall be established by this chapter or by the board.

The board shall cause a survey to be made of the institution and its proposed educational program. If the survey reveals and the board is of the opinion that all requirements for an approved nursing educational program are met, it shall approve the institution.

The board, as often as deemed necessary, shall survey all nursing educational programs in the state. Should such survey reveal that the institution conducting such nursing educational program is not maintaining the standards required by the board, notice shall be given to the institution in writing, specifying deficiencies. Should an institution fail to correct the deficiencies to the satisfaction of the board within a reasonable length of time, the board shall disapprove the nursing educational program of such institution; provided, the institution may again qualify for approval if all requirements and standards are met.

(Acts 1965, No. 867, p. 1615, § 10.)

§ 34-21-7. Violations and penalties.

Any person or persons, firm, partnership, association or corporation, who shall sell or fraudulently obtain or furnish any nursing diploma, license or license renewal or aid or abet therein; or practices nursing as defined in this chapter under cover of any diploma, license or renewal license fraudulently obtained or issued under fraudulent misrepresentation or, after January 1, 1968, practices professional nursing as defined in this chapter or, after January 1, 1971, practices practical nursing as defined in this chapter, unless duly licensed to do so under the provisions hereof; or uses in connection with his or her name any designation implying or tending to imply that he or she is a licensed professional nurse and licensed to practice as a registered nurse, or a practical nurse licensed to practice practical nursing as a licensed practical nurse, unless duly licensed to practice under the provisions of this chapter; or after January 1, 1968, practices professional nursing or, after January 1, 1971, practices practical nursing during the time his or her license issued under the provisions of this chapter shall be suspended, revoked or has expired; or conducts a nursing education program for the preparation of professional or practical nurses, purporting eligibility of its graduates for license hereunder, unless the program has been approved by the board; or knowingly conceals information relating to violations of this chapter; or otherwise violates any of the provisions of this chapter, shall be guilty of a Class A misdemeanor and upon conviction, shall be punished in accordance with the laws of the State of Alabama.

(Acts 1965, No. 867, p. 1615, § 13; Acts 1983, No. 83-642, p. 989, § 4.)

§ 34-21-8. Payment of license and fees by personal check.

Notwithstanding any other provision of law, the Board of Nursing may accept personal checks from licensees for the payment of license and other fees required by the board. The board may also promulgate the necessary rules and regulations to penalize any licensee who issues a worthless check to the board.

(Act 2001-239, p. 281, § 5.)

§ 34-21-21. License to practice professional nursing; use of title "registered nurse."

(a) An applicant for a license to practice professional nursing as a registered nurse shall submit to the board written evidence of qualification, verified by oath, that such applicant is of good moral character, holds a diploma from an accredited high school or, in the opinion of the board, the equivalent thereof, and has successfully completed an educational program in a school of nursing approved by the board.

(b) A license to practice professional nursing as a registered nurse may be obtained in the following manners:

(1) By examination. The applicant shall be required to pass an examination on such subjects as the board may determine; and, upon successfully passing such examination, the board shall issue such applicant a license.

(2) By endorsement. The board may issue a license to practice professional nursing as a registered nurse to an applicant who has been duly licensed as a registered nurse under the laws of another state, territory or foreign country, if, in the opinion of the board, such applicant meets the qualifications required of registered nurses in this state at the time of his or her graduation. There shall be no license to practice professional nursing granted by the previously known waiver method.

(3) By temporary permit. The board may issue temporary permits to practice professional nursing to graduates of approved schools of nursing pending completion of licensing procedures; to qualified applicants pending licensure procedures under paragraph (2) of this subsection; and to those nurses licensed by other states who will practice in this state for a period of one year or less, subject to the discretion of the board.

(c) Any person who holds a license to practice professional nursing as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume or use such title or abbreviation or other words, letters, signs or devices to indicate that the person using same is licensed to practice professional nursing as a registered nurse.

(d) Any person holding a license or certificate of original registration to practice nursing as a registered nurse, issued by the Alabama Board of Nurses' Examiners and Registration and which was valid on December 31, 1965, shall be eligible for licensing to practice professional nursing as a registered nurse under the provisions of this chapter.

(Acts 1965, No. 867, p. 1615, § 15; Acts 1975, No. 427, p. 1024, § 1.)

§ 34-21-22. License to practice practical nursing; use of title "licensed practical nurse."

(a) An applicant for a license to practice practical nursing as a licensed practical nurse shall submit to the board written evidence of qualification, verified by oath, that said applicant is of good moral character, is a high school graduate and holds a diploma from an accredited high school, or in the opinion of the board, the equivalent thereof and has successfully completed an educational program of at least one year's duration in a school of practical nursing, approved by the board.

(b) A license to practice as a licensed practical nurse may be obtained in the following manners:

(1) By examination. -- The applicant shall be required to pass an examination on such subjects as the board may determine; and, upon successfully passing such examination, the board shall issue such applicant a license.

(2) By endorsement. -- The board may issue a license to practice practical nursing as a licensed practical nurse to an applicant who has been duly licensed as a licensed practical nurse (irrespective of the title or designation granted when such license was issued) under the laws of another state, territory or foreign country, if, in the opinion of the board, such applicant meets the requirements for licensed practical nurses in this state at the time of his or her graduation. There shall be no license to practice practical nursing granted by the previously known waiver method.

(3) By temporary permit. -- The board may issue a temporary permit to practice practical nursing as a licensed practical nurse to graduates of approved schools of practical nursing pending the completion of licensing procedures in Alabama and to qualified applicants pending licensing procedures under paragraph (2) of this subsection.

(c) Any person who holds a license to practice practical nursing as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume or use such title or abbreviation or any other words, letters, signs or devices to indicate that the person using the same is licensed to practice practical nursing as a licensed practical nurse.

(d) Any person holding a license or certificate of original registration to practice practical nursing as a licensed practical nurse, issued by the Alabama Board of Nurses' Examiners and Registration and issued by said board and which was valid on December 31, 1965, shall hereafter be eligible for licensing to practice practical nursing as a licensed practical nurse under the provisions of this chapter.

(Acts 1965, No. 867, p. 1615, § 6; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 5.)

§ 34-21-23. Renewal of license; continuing education.

(a) The license of every professional nurse licensed under the provisions of this chapter shall be renewed biennially, and the term of the license shall be two years. Applicants for renewal shall apply for and complete the renewal application and forward same to the board, along with the renewal fee, during the renewal period that shall from time to time be specified by the board. The board shall examine and verify the accuracy of the application and, if in order, shall issue a renewal receipt for a license period of two years.

(b) The license of every practical nurse licensed as a licensed practical nurse under the provisions of the chapter shall be renewed biennially, and the term of the license shall be two years. Applicants for renewal shall apply for and complete the renewal application and forward same to the board, along with the renewal fee, during the renewal period that shall from time to time be specified by the board. The board shall examine and verify the accuracy of the application and, if in order, shall issue a renewal receipt for a license period of two years.

(c) Any person practicing nursing who allows his or her license to lapse by failing to renew, as hereinafter provided, may be reinstated and licensed by the board upon satisfactory explanation of such failure and upon payment of the required fees. The board is hereby authorized under its rule-making powers to provide for an inactive license status for licensees under this chapter and to collect such fees as the board determines for such inactive license.

(d) It shall be unlawful for any person to practice professional nursing in this state during the time his or her license to practice has lapsed, and such person shall be subject to the penalties of this chapter. It shall be unlawful for any person to practice practical nursing in this state during

the time his or her license so to practice has lapsed, and such person shall be subject to the penalties of this chapter.

(e) A nurse not actively practicing professional nursing in Alabama, or not actively practicing practical nursing in Alabama, shall not be required to renew his or her license; but such person shall, prior to resuming the practice of professional nursing, or the practice of practical nursing, submit evidence of continued competence satisfactory to the board and secure a renewal license before reengaging in the active practice of professional nursing or in the active practice of practical nursing, as the case may be.

(f) The board shall adopt a continuing education program by October 1, 1991. After said date, successful completion of said continuing education requirements shall be a requisite for license renewal.

(g) Provided, however, under the provisions of this section, continuing education shall not result in a passing or failing grade.

(Acts 1965, No. 867, p. 1615, § 7; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 6; Acts 1989, No. 89-243, p. 349, §§ 3, 4.)

§ 34-21-24. Fees and charges.

The board shall set the fees and charges annually for the services under this chapter.

(Acts 1965, No. 867, p. 1615, § 8; Acts 1975, No. 427, p. 1024, § 1; Acts 1983, No. 83-642, p. 989, § 7.)

§ 34-21-25. Denial, suspension or revocation of license; administrative fines; voluntary disciplinary alternative program.

(a) For disciplinary purposes, the board may adopt, levy, and collect administrative fines not to exceed \$1,000 per violation and may institute any legal proceedings necessary to effect compliance with this chapter against its licensees.

(b) The board may also deny, revoke, or suspend any license issued by it or to otherwise discipline a licensee upon proof that the licensee: is guilty of fraud or deceit in procuring or attempting to procure a license; has been convicted of a felony; is guilty of a crime involving moral turpitude or of gross immorality that would tend to bring reproach upon the nursing profession; is unfit or incompetent due to the use of alcohol, or is addicted to the use of habit-forming drugs to such an extent as to render him or her unsafe or unreliable as a licensee; has been convicted of any violation of a federal or state law relating to controlled substances; is guilty of unprofessional conduct of a character likely to deceive, defraud, or injure the public in matters pertaining to health or has willfully or repeatedly violated any of the provisions of this article, as defined by board rules and regulations. The board may refrain from or delay taking disciplinary action under this subsection if a licensee can be voluntarily treated or rehabilitated pursuant to subsection (j) of this section.

(c) Whenever a written complaint is made to the board that a person has committed any of the acts or come within any of the provisions enumerated in subsection (b), the board shall investigate the complaint and may bring an action in its own name to hear and determine the complaint. The hearing shall be held in Montgomery, Alabama. The person whose qualification is under consideration shall have not less than 20 days' written notice of the time and place of the initial hearing, and the notice shall be accompanied by a copy of the complaint. The notice may

be served upon the accused person by any sheriff of the State of Alabama. If the accused person is out of the state, evades service, or cannot be served in person, then service may be made by mailing, by registered or certified mail, the notice and a copy of the complaint to the accused person at his or her last known post-office address in this state, and the return shall show that service has been made in this manner.

(d) At the hearing, the complainant, the person whose qualification is under consideration, and any other person permitted by the board, shall have the right to introduce all oral or written testimony, or both, as the board deems relevant to the issues involved, and the right to be heard in person or by counsel, or both. The board may permit the complaint to be amended, but no amendment shall be permitted which is not germane to the charge or charges sought to be amended or which materially alters the nature of any offense charged. The board may determine all questions as to the sufficiency of the complaint, procedure, and admissibility and weight of evidence. If the person whose qualification is under consideration is absent, the hearing may proceed in his or her absence.

(e) Any accused person, complainant, or other party and the board may subpoena witnesses or pertinent records for the hearing, and those subpoenas may be served by any sheriff of the State of Alabama. Witnesses may be sworn by the president of the board or by the person discharging the duties of the president. Witnesses testifying at a hearing shall upon discharge as a witness be paid by the party requesting the subpoena an amount not to exceed the per diem expense allowed to Alabama state employees for in-state travel and the actual cost of transportation to and from the place of the hearing, not to exceed the mileage rate allowed to Alabama state employees for in-state travel.

(f) Evidence may also be taken by deposition, and the law and practice as to depositions in circuit courts shall be followed in all reasonable respects.

(g) If the accused person is found guilty of the charges, the board may refuse to issue a license, may revoke or suspend a license, or may otherwise discipline a licensee. A revoked license may be considered for reinstatement after one year in accordance with board rules.

(h) Any person whose license is ordered suspended or revoked may appeal to the circuit court or a court of like jurisdiction of Montgomery County, from any order of the board under this section, within 30 days from date of the decision of the board. The trial of appeals shall be conducted in like manner, as nearly as may be, as provided for in the Alabama Administrative Procedure Act.

(i) Any organization, registered nurse, licensed practical nurse, or other person who in good faith reports information to the board alleging that any person licensed or applying for a license to practice nursing may be guilty of the acts, offenses, or conditions set out in Section 34-21-7 or subsection (b) of this section, shall not be liable to any person for any statement or opinion made in that report.

(j) Not later than October 1, 1994, the board shall establish a voluntary disciplinary alternative program to promote early identification, intervention, treatment, and rehabilitation of any licensed nurse whose competence is found to be impaired or compromised because of the use or abuse of drugs, alcohol, controlled substances, chemicals, or other substances or as a result of a physical or mental condition rendering the person unable to meet the standards of the nursing profession. The intent of the program is to provide a voluntary alternative to traditional disciplinary actions.

(1) When a registered nurse or licensed practical nurse voluntarily seeks treatment for use or abuse of drugs, controlled substances, alcohol, chemicals, or other substances, or has a physical

or mental condition that would render the individual unable to meet the standards of the nursing profession, the board may refrain from taking disciplinary action under subsection (b) if it determines that the licensee can be treated or rehabilitated effectively and that there is no danger to the public. Upon voluntarily seeking treatment, the licensee is subject to the requirements of the disciplinary alternative program established by the board.

(2) The board may adopt and revise rules and regulations, and may adjust the license renewal fee as necessary to implement this subsection.

(3) The board may appoint an advisory council for the disciplinary alternative program pursuant to Section 34-21-3.

(4) The board may contract with specially qualified persons or corporations, or both, to assist it in administering the disciplinary alternative program.

(5) The board shall establish by rule criteria for eligibility to participate in the disciplinary alternative program and requirements for successful participation in and completion of the program.

(6) All records of a licensee who successfully completes the disciplinary alternative program shall be confidential, shall not be subject to public disclosure, and shall not be available for court subpoena or for discovery proceedings. The records of a licensee who fails to comply with the program agreement or who leaves the state prior to the successful completion of the program shall not be deemed confidential.

(7) Nothing in this subsection shall limit the authority of the board to discipline an impaired individual subject to its jurisdiction.

(Acts 1965, No. 867, p. 1615, § 11; Acts 1983, No. 83-642, p. 989, § 8; Acts 1989, No. 89-243, p. 349, § 3; Acts 1993, No. 93-183, p. 272, § 3.)

§ 34-21-26. Practice of nursing by unlicensed persons declared public nuisance; injunctive relief.

After January 1, 1968, the practice of professional nursing by any person who has not been issued a license under the provisions of this article, or whose license has been suspended, revoked or has expired, is hereby declared to be inimical to the public welfare and to constitute a public nuisance. After January 1, 1971, the practice of practical nursing by any person who has not been issued a license under the provisions of this article, or whose license has been suspended, revoked or has expired, is hereby declared to be inimical to the public welfare and declared to be a public nuisance. After January 1, 1968, the Board of Nursing of the State of Alabama may apply to any court of competent jurisdiction for an injunction to enjoin any person from practicing professional nursing, who has not been issued a license to practice professional nursing or whose license therefor has been suspended or revoked or has expired, and after January 1, 1971, the Board of Nursing of the State of Alabama may apply to any court of competent jurisdiction for an injunction to enjoin any person from practicing practical nursing who has not been issued a license to practice practical nursing or whose license therefor has been suspended or revoked or has expired.

Injunctions under this section shall be applied for in accordance with the civil remedies and procedures of the State of Alabama under Article 10 of Chapter 6 of Title 6 of this code and under the Alabama Rules of Civil Procedure.

Applications for injunctions hereunder shall be in addition to and not in lieu of all penalties and other remedies provided for in this chapter. (Acts 1965, No. 867, p. 1615, § 14.)

§ 34-21-40. Duty of Board of Nursing to provide programs, seminars and workshops.

To meet the health care needs of the citizens of Alabama and to cope with the rapidly changing methods of health care delivery, the Alabama Board of Nursing is authorized and directed to provide quality continuing education programs, seminars and workshops to acquaint and educate nurses in the most current and modern nursing procedures. These continuing education programs in nursing shall be designed to insure that nurses will be educated in the latest technics of health care delivery.

(Acts 1976, No. 749, p. 1030, § 1; Acts 1977, No. 758, p. 1298, § 1.)

§ 34-21-41. Grants, contracts, etc., with individuals, institutions and agencies.

The Alabama Board of Nursing is authorized and directed to develop continuing education programs designed to meet the criteria outlined in Section 34-21-40. The Alabama Board of Nursing is authorized to make grants, contracts, appropriations and to otherwise arrange with qualified individuals, institutions or agencies to develop and implement comprehensive nursing education programs, seminars and workshops that will insure the promotion, dissemination and availability of modern nursing and health care technics to the citizens of Alabama.

(Acts 1976, No. 749, p. 1030, § 2; Acts 1977, No. 758, p. 1298, § 2.)

§ 34-21-42. Plans, programs and criteria.

The Board of Nursing is hereby authorized and directed to establish plans, programs and criteria sufficient to carry out continuing education programs for nurses outlined in Sections 34-21-40 and 34-21-41.

(Acts 1976, No. 749, p. 1030, § 3; Acts 1977, No. 758, p. 1298, § 3.)

§ 34-21-43. Source of funds.

All expenses in developing and conducting educational programs, seminars and workshops under this article shall be paid from funds of the Board of Nursing. No expenses shall be borne by the State of Alabama from the General Fund of the state.

(Acts 1976, No. 749, p. 1030, § 4; Acts 1977, No. 758, p. 1298, § 4.)

§ 34-21-61. Qualifications of recipients; applications.

To be eligible to receive a scholarship provided by this article, a person must have been a resident of the State of Alabama for a period of at least one year immediately preceding the time of making application, must be a person of good character and shall have been accepted for matriculation in a graduate nursing program conducted by an accredited school of nursing, must hold a baccalaureate degree in nursing from an accredited nursing school and must agree to practice professional nursing in the State of Alabama for at least one year after completing the course in graduate study. These scholarships will be available to students seeking master's or doctorate degrees in nursing. Application for these scholarships shall be made to the Alabama Board of Nursing.

§ 34-21-62. Amount of scholarships; criteria for selection of recipients; renewal of scholarships; failure to complete course or service as a nurse.

Each scholarship provided for by this article shall be in the amount of \$3,800.00 per year, payable from funds appropriated to the Alabama Board of Nursing for this purpose. Contingent upon subsequent legislative funding of this program, a scholarship may either be renewed by the Alabama Board of Nursing for the same student or awarded to another applicant for the scholarship. Criteria for the selection of recipients and awarding of the scholarships shall be established by the Alabama Board of Nursing. These criteria shall be used as guides in the selection of the scholarship recipients from the various geographical areas of the state. In case a scholarship student fails to complete the course prescribed for a graduate degree in nursing, that student shall repay the amount of any scholarship funds received hereunder to the State Treasury. In the event of the scholarship recipient's death, the obligation for funds disbursed and not repaid shall be cancelled. In the event the scholarship recipient becomes mentally or physically impaired and is unable to complete a graduate course in nursing, or has received a graduate degree but is unable to complete one year of service as a nurse due to such disability, the obligation for funds disbursed and not repaid shall be cancelled.

(Acts 1977, 1st Ex. Sess., No. 68, p. 1491, § 3.)

§ 34-21-63. Annual appropriation.

There is hereby appropriated each year, beginning with the fiscal year ending September 30, 1978, to the Alabama Board of Nursing, out of any funds in the State Treasury to the credit of the Alabama Special Education Trust Fund, the sum of \$57,000.00, to be used solely for funding scholarships provided by this article. The appropriation provided in this section is in addition to any appropriations heretofore made, or to be made, to the Alabama Board of Nursing for each fiscal year.

(Acts 1977, 1st Ex. Sess., No. 68, p. 1491, § 4.)

§ 34-21-81. Definitions.

As used in this article, the following terms shall have the following meanings:

- (1) Board of medical examiners. The State Board of Medical Examiners established pursuant to Section 34-24-53.
- (2) Board of nursing. The Board of Nursing established under Section 34-21-2.
- (3) Advanced practice nurse. A registered nurse that has gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles and has been certified by the Board of Nursing to engage in the practice of advanced practice nursing. There shall be four categories of advanced practice nurses: Certified registered nurse practitioners (CRNP), certified nurse midwives (CNM), certified registered nurse anesthetists (CRNA), and clinical nurse specialists (CNS). Certified registered nurse practitioners and certified nurse midwives are subject to collaborative practice agreements with an Alabama physician. Certified registered nurse anesthetists and clinical nurse specialists are not subject to collaborative practice agreements with an Alabama physician and are not subject to the requirements of Sections 34-21-82, 34-21-83, and 34-21-85 to 34-21-92, inclusive, and are prohibited from engaging in any of the acts or functions of a certified

registered nurse practitioner (CRNP) or a certified nurse midwife (CNM) as established by this article and regulations adopted under this article.

(4) Advanced practice nursing. The delivery of health care services by registered nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that prepares nurses for advanced practice roles as certified registered nurse practitioners, certified nurse midwives, certified nurse anesthetists, and clinical nurse specialists:

a. Practice as a certified registered nurse practitioner (CRNP) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he or she has advanced knowledge and skills in the delivery of nursing services within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.

b. Practice as a certified nurse midwife (CNM) means the performance of nursing skills by a registered nurse who has demonstrated by certification that he or she has advanced knowledge and skills relative to the management of women's health care focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning, and gynecological needs of women, within a health care system that provides for consultation, collaborative management, or referral as indicated by the health status of the client.

c. Practice as a certified registered nurse anesthetist (CRNA) means the performance of or the assistance in any act involving the determination, preparation, administration, or monitoring of any drug used to render an individual insensible to pain for surgical and other therapeutic or diagnostic procedures. The nurse anesthetist is qualified in accordance with Section 27-46-3 and is licensed by the Board of Nursing and functions under the direction of a physician licensed to practice medicine, or a dentist, who is immediately available.

d. Practice of clinical nurse specialist (CNS) nursing means the performance of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by certification, has advanced knowledge and practice skills in a specialized area of practice, except that a clinical nurse specialist may not do any of the following:

1. Perform delegated medical acts or engage in collaborative practice as described in this article.
2. Perform any of the functions of a certified registered nurse practitioner or a certified nurse midwife as described in this article and the regulations adopted under this article, whether or not performed within a collaborative practice relationship.
3. Prescribe drugs of any type. A clinical nurse specialist may perform nursing services permitted under this subdivision as an independent contractor.

(5) Collaboration. A formal relationship between one or more certified registered nurse practitioners and certified nurse midwives and a physician or physicians under which these nurses may engage in advanced practice nursing as evidenced by written protocols approved in accordance with the requirements of this article or exempted in accordance with requirements of this article. The term collaboration does not require direct, on-site supervision of the activities of a certified registered nurse practitioner or a certified nurse midwife by the collaborating physician. The term does require such professional oversight and direction as may be required by the rules and regulations of the State Board of Medical Examiners and the Board of Nursing.

(6) Physician or collaborating physician. A doctor of medicine or a doctor of osteopathy licensed to practice medicine in Alabama who agrees in writing to practice in collaboration with one or more certified registered nurse practitioners or certified nurse midwives in accordance

with the rules and regulations adopted by the State Board of Medical Examiners and the Board of Nursing.

(7) Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses. The Joint Committee of the State Board of Medical Examiners and the Board of Nursing for Advanced Practice Nurses shall mean and shall be a committee composed of all of the following:

- a. Two physicians licensed to practice medicine in the State of Alabama.
- b. One registered nurse licensed to practice professional nursing in the State of Alabama.
- c. One licensed physician engaged in a collaborative practice with a certified registered nurse practitioner or a certified nurse midwife in the State of Alabama.
- d. One certified registered nurse practitioner engaged in advanced practice with a physician in the State of Alabama.
- e. One certified nurse midwife engaged in advanced practice with a physician in the State of Alabama.

(8) Legend drug. Any drug, medicine, chemical, or poison bearing on the label the words, "Caution, Federal Law prohibits dispensing without prescription" or similar words indicating that such drug, medicine, chemical, or poison may be sold or dispensed only upon the prescription of a licensed practitioner, except that the term legend drug shall not include any drug, substance, or compound which is listed in Schedules I through V of the Alabama Uniform Controlled Substances Act.

(9) Prescribe or prescribing. The act of issuing a written prescription for a legend drug.

(10) Prescription. An order for a legend drug which is written and signed by a practitioner authorized by law to prescribe and administer such drugs and which is intended to be filled, compounded, or dispensed by a pharmacist.

(11) Protocol. A document approved in accordance with Section 34-21-87 establishing the permissible functions and activities to be performed by certified registered nurse practitioners and certified nurse midwives and signed by collaborating physicians and any nurse practitioners or nurse midwives practicing with those physicians.

(Acts 1995, No. 95-263, p. 464, § 2; Act 2001-239, p. 281, § 3.)

§ 34-21-82. Joint committee -- Appointment, terms of office, office of chairperson, and meetings.

(a)(1) The physician members of the joint committee shall be appointed by the State Board of Medical Examiners and shall serve three-year terms as set out below.

(2) The registered nurse members of the joint committee shall be appointed by the Board of Nursing and shall serve three-year terms as set out below.

(b)(1) In order to stagger the terms of office, the Board of Nursing and the State Board of Medical Examiners will each appoint to the initial joint committee one member for a term of one year, one member for a term of two years, and one member for a term of three years. Should a vacancy occur on the committee, a successor will be appointed to serve the unexpired term. The committee shall select one of its members to serve as chairperson for a one-year term.

(2) The office of chairperson shall alternate between a physician member of the committee and a nurse member of the committee.

(3) The committee shall meet annually, or more frequently if requested by the State Board of Medical Examiners or the Board of Nursing. Members of the committee shall receive per diem

at a rate of \$100.00 per day or any portion thereof that such a committee member shall be in attendance at an official meeting or function of the committee and in addition shall receive reimbursement for subsistence and travel in accordance with state law for each day actively engaged in the duties of their offices. The State Board of Medical Examiners and the Board of Nursing shall pay per diem and expenses of the members each appoints to the joint committee and shall furnish necessary clerical and administrative support for operation of the committee. (Acts 1995, No. 95-263, p. 464, § 3.)

§ 34-21-84. Board of Nursing to establish qualifications for advanced practice nurses; rules and regulations establishing procedures for certification.

(a) The Board of Nursing shall be the sole state authority designated to establish the qualifications necessary for a registered nurse to be certified to engage in advanced practice nursing. The Board of Nursing shall recognize the educational qualifications and training of advanced practice nurses by the issuance of a certification of qualification to engage in advanced practice nursing. To be eligible for certification, an applicant shall be currently licensed as a registered nurse in Alabama and shall meet the requirements for certification as an advanced practice nurse as defined in the rules and regulations established by the Board of Nursing.

(b) Pursuant to subsection (a), the Board of Nursing may adopt rules and regulations establishing the procedures for individuals to be certified to engage in advanced practice nursing, as well as grounds for denial or termination of certification or both, and the fees to be paid to the Board of Nursing in connection with an application for certification.

(Acts 1995, No. 95-263, p. 464, § 5.)

§ 34-21-85. Joint committee designated to recommend rules and regulations; requirements to engage in advanced practice nursing.

The joint committee shall be the state authority designated to recommend rules and regulations to the State Board of Medical Examiners and the Board of Nursing for the purpose of regulating the collaborative practice of physicians and certified registered nurse practitioners and certified nurse midwives. No person may practice as a certified registered nurse practitioner or a certified nurse midwife in this state unless that person possesses a certificate of qualification issued by the Board of Nursing and practices under written protocols approved by the State Board of Medical Examiners and the Board of Nursing and signed by a qualified collaborating physician or physicians and certified registered nurse practitioner or certified nurse midwife or is exempt from the requirement of a written protocol according to rules promulgated by the State Board of Medical Examiners and the Board of Nursing. The joint committee shall recommend to the State Board of Medical Examiners and the Board of Nursing rules and regulations designed to govern the collaborative relationship between physicians and certified registered nurse practitioners and certified nurse midwives certified by the Board of Nursing to engage in these areas of advanced practice nursing. These rules and regulations shall be finally adopted by July 1, 1996. These rules and regulations and any and all additions, deletions, corrections, or changes thereto shall be considered rules and regulations requiring publication under the Alabama Administrative

Procedure Act; however, the following shall not be considered rules or regulations under the Administrative Procedure Act:

(1) Protocols for use by certified registered nurse practitioners and certified nurse midwives certified to engage in these two areas of advanced practice nursing in collaboration with a physician; and

(2) The formulary of legend drugs that may be prescribed by certified registered nurse practitioners and certified nurse midwives authorized to do so.

(Acts 1995, No. 95-263, p. 464, § 6.)

§ 34-21-86. Prescribing legend drugs; initiating call-in prescriptions; administering legend drugs.

(a) Certified registered nurse practitioners and certified nurse midwives, engaged in collaborative practice with physicians practicing under protocols approved in the manner prescribed by this article may prescribe legend drugs to their patients, subject to both of the following conditions:

(1) The drug type, dosage, quantity prescribed, and number of refills shall be authorized in an approved protocol signed by the collaborating physician; and

(2) The drug shall be on the formulary recommended by the joint committee and adopted by the State Board of Medical Examiners and the Board of Nursing.

(b) A certified registered nurse practitioner or a certified nurse midwife may not initiate a call-in prescription in the name of a collaborating physician for any drug, whether legend or controlled substance, which the nurse practitioner or certified nurse midwife is not authorized to prescribe under the protocol signed by the collaborating physician and certified registered nurse practitioner or certified nurse midwife and approved under this section unless the drug is specifically ordered for the patient by the physician, either in writing or by a verbal order which has been reduced to writing, and which has been signed by the physician within a time specified in the rules and regulations approved by the State Board of Medical Examiners and the Board of Nursing.

(c) Registered nurses and licensed practical nurses are authorized to administer any legend drug that has been lawfully ordered or prescribed by an authorized practitioner including certified registered nurse practitioners, certified nurse midwives, and/or assistants to physicians.

(Acts 1995, No. 95-263, p. 464, § 7.)

§ 34-21-88. Acts which constitute grounds for termination.

The following acts shall constitute grounds for the termination by the Board of Nursing of a certified registered nurse practitioner's or a certified nurse midwife's certificate of qualification to engage in these areas of advanced practice nursing and for the termination of the approval of the State Board of Medical Examiners of the collaborating practice of a physician and certified registered nurse practitioner or a certified nurse midwife, or both:

(1) Prescribing in violation of this article or the rules and regulations of the State Board of Medical Examiners or the Board of Nursing.

(2) For a certified registered nurse practitioner or a certified nurse midwife to engage in any act or render any services not authorized in his or her protocol or for a physician to require or to knowingly permit or condone such an act.

(3) Failure on the part of a certified registered nurse practitioner or a certified nurse midwife to maintain current licensure with the Board of Nursing or failure of a physician to maintain current licensure with the Medical Licensure Commission.

(4) The commission of any act by a certified registered nurse practitioner or a certified nurse midwife which would constitute a violation of Section 34-21-25(b) or any act by a physician which would constitute a violation of Section 34-24-360.

(Acts 1995, No. 95-263, p. 464, § 9.)

§ 34-21-89. Boards permitted to initiate disciplinary actions for violations of section; requirements before action taken.

The Board of Nursing may initiate disciplinary actions against a certified registered nurse practitioner or a certified nurse midwife for violations of Section 34-21-86. The State Board of Medical Examiners may initiate disciplinary actions against a physician for violation of Section 34-21-86. Before either board takes such disciplinary action, it shall give the licensee against whom the action is contemplated a notice of the proposed action and an opportunity for a hearing before the respective board. All hearings shall be governed by the Alabama Administrative Procedure Act.

(Acts 1995, No. 95-263, p. 464, § 10.)

§ 34-21-90. Requirements for engaging in practice.

No person shall engage in practice as a certified registered nurse practitioner or certified nurse midwife or in any of the acts or functions described in this article and the regulations adopted under this article in this state unless that person is certified by the Board of Nursing as an advanced practice nurse in a category of certified registered nurse practitioner or certified nurse midwife and is practicing in collaboration with a physician following protocols which have been approved in accordance with this article or has been exempted from the requirement of practicing in collaboration with a physician following protocols as provided in Section 34-21-85.

(Acts 1995, No. 95-263, p. 464, § 11.)

§ 34-21-91. Injunctive proceedings by boards against persons violating article.

Both the State Board of Medical Examiners and the Board of Nursing in addition to the powers and duties otherwise expressed in this article, may commence and maintain in their own names in any circuit court having jurisdiction of any person within this state who is unlawfully engaging in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife action in the nature of quo warranto as provided for in Section 6-6-590, et seq., to order the person to cease and desist from continuing to engage in these areas of advanced practice nursing within the State of Alabama, and jurisdiction is conferred upon the circuit courts of this state to hear and determine all such cases. The boards may commence and maintain such actions without the filing of bond or security and without the order or direction of a circuit judge. An injunction shall be issued upon proof that the person is now engaged in advanced practice nursing as a certified registered nurse practitioner or a certified nurse midwife in violation of this article without requiring proof of actual damage sustained by any person. In any case of violation of any injunction issued under this section, the court or any judge thereof may

summarily try, and punish the offender for contempt of court. Injunctive proceedings as authorized in this section shall be in addition to, and not in lieu of, all penalties and other remedies prescribed by law.

(Acts 1995, No. 95-263, p. 464, § 12.)

§ 34-21-92. Waiver of requirements until adoption of rules and regulations.

Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this article, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 34-21-84 and 34-21-85 and shall grant the appropriate certification to any nurse practitioner or nurse midwife who is currently certified or is eligible for certification to be a certified registered nurse practitioner or certified nurse midwife and will continue to engage in practice under the existing rules and regulations. Until the State Board of Medical Examiners and the Board of Nursing adopt the rules and regulations necessary to effectuate the provisions of this article, the State Board of Medical Examiners and the Board of Nursing shall waive the requirements of Sections 34-21-84 and 34-21-85 and shall grant the appropriate approval to a collaborating physician submitting a request for approval of a collaborative practice agreement. Notwithstanding the provisions of Section 15 of Acts 1995, No. 95-263, nurse practitioners and nurse midwives are prohibited from prescribing until final rules and regulations are adopted by the State Board of Medical Examiners and the Board of Nursing in accordance with Section 34-21-87.

(Acts 1995, No. 95-263, p. 464, § 13.)

§ 34-21-93. Construction of article with Sections 34-19-2 to 34-19-10.

The provisions of this article shall be applied and construed in pari materia with Sections 34-19-2 to 34-19-10. Upon final adoption of rules and regulations by the State Board of Medical Examiners and the Board of Nursing as authorized by this article, any inconsistent portions of Sections 34-19-2 to 34-19-10 are superseded.

(Acts 1995, No. 95-263, p. 464, § 14.)

Effective date:

This section became effective June 26, 1995.

Board Members



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N. GENELL LEE, MSN, RN, JD
EXECUTIVE OFFICER

June 29, 2004

Ms. Maria Catledge
Examiners of Public Accounts
50 N. Ripley Street
Room 3201
Montgomery, AL 36130-2101

RE: List of Board Members and Officials

Dear Ms. Catledge,

As you requested, I am providing you with the current list of Board of Nursing members, including their address, expiration of term, and race. If you need additional information, do not hesitate to let me know.

2004 BOARD OF NURSING BOARD MEMBERS

<u>NAME & BUSINESS ADDRESS</u>	<u>HOME ADDRESS</u>	<u>TERM EXPIRES</u>	<u>RACE</u>
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Elaine Klein, CRNA, Ph.D., Vice-President Children's Hospital of Alabama 1600 7 th Ave S	4305 Mountaindale Rd Birmingham AL 35213 Phone: (205) 956-1587	12/31/05	W

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Executive Officer (since 9/99)

N. Genell Lee, MSN, RN, JD
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334-242-4184
glee@abn.state.al.us

W

Sincerely,

N. Genell Lee, MSN, RN, JD
Executive Officer

August 23, 2004

Mr. John E. Norris
Director, Operational Division
Examiners of Public Accounts
P.O. Box 302251
Montgomery, AL 36130-2251

RE: Alabama Board of Nursing Response to Significant Item

Dear Mr. Norris,

In addition to the information provided to Maria Catledge, Auditor, I would like to provide more detailed information about the impact of the lack of arrest powers on the Board of Nursing.

Code of Alabama, Section 12-21-3.1 (Supp. 1998) (attached) provides that law enforcement investigative reports and testimony of an officer can not be compelled in an administrative proceeding without a court order. Subsection (b) clearly states that law enforcement investigative reports and related investigative material are not public records. In fact, the reports, records, witness statements, and field notes are privileged communications.

While subsection (e) does not preclude the disclosure of investigative reports to a state administrative agency authorized to investigate or conduct contested cases, it does not require it. In fact, most law enforcement agencies use subsections (a) and (b) as reasons why they will not share investigative information with the Board of Nursing investigators. If the Board of Nursing investigators had arrest powers and were designated as law enforcement officers, other law enforcement agencies would more readily share information because the same laws would apply.

Further, Alabama Board of Nursing records are the subject of frequent subpoena requests. These requests always demand production of investigative reports. While Section 12-21-3.1 provides protection for investigative reports of law enforcement officers, the lack of arrest powers for the Board of Nursing

investigators requires that we provide administrative investigative reports. There are no protections in the law for administrative investigative reports. On several occasions, the Board has been in court over this issue and courts often rule against the Board. These reports should be protected and could be if Board's investigators had arrest powers.

The Board of Nursing has approximately 65,000 licensed nurses it is responsible for regulating. We are presently monitoring approximately 350 licensed nurses for drug and alcohol abuse or dependency. In addition, we have fourteen pending administrative cases based on alleged criminal conduct. The fourteen cases involve the following criminal charges:

- Murder (two cases)
- Sexual Abuse 1st and Sodomy 1st
- 68 counts of Theft of property 1st and 2nd degree
- Domestic Violence and Assault 3rd
- Child Abuse
- Assault 2nd Degree
- Contributing to the Dependency of a Minor/Possession of a Controlled Substance
- Sexual Abuse 2nd
- 17 counts of Possession/Receiving a Controlled Substance
- Rape (two cases)
- Felony Possession of Controlled Substance/Felony Possession of Marijuana
- Abuse and Neglect/Falsification of Government Documents

Each nurse has an active, unencumbered license and, to our knowledge, the majority are working in nursing and providing care to patients. Because we are unable to obtain investigative information, we do not have sufficient information to interview witnesses, review documents, and gather evidence. Thus, we are forced to wait until the criminal case has been completed before taking any action against the defendant's nursing license. As you know, it may take up to three years for a criminal case to progress through the court system. In many instances, with information about the case we could initiate disciplinary action against the nurse.

Some of the residents of the community where these events occurred periodically contact the Board to find out why we have not done anything to encumber the individual's nursing license. When we advise community residents that we are unable to proceed with administrative action without evidence, the response we get is dissatisfaction. On one of the murder cases, we received multiple newspaper clippings from community residents concerned that the individual is working as a nurse without any monitoring by the Board.

The lack of investigative information hampers the ability of the Board's investigators to conduct obtain substantial evidence to proceed with administrative proceedings until the criminal case is resolved. Arrest powers for the Board's investigators would greatly enhance the sharing of information, which would in turn enhance the Board's ability to protect the public.

Should you need additional information, do not hesitate to contact me at 334-242-4184 or via electronic mail at glee@abn.state.al.us.

Sincerely,

N. Genell Lee, MSN, RN, JD
Executive Officer

Enclosure: **Code of Alabama**, Section 12-21-3.1 (Supp. 1998)